

April 22, 2008



**TRANSCRIPT
April 22, 2008**

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Michael Knapp, President
Councilmember Roger Berliner
Councilmember Valerie Ervin
Councilmember George Leventhal

Councilmember Phil Andrews, Vice-President
Councilmember Marc Elrich
Councilmember Nancy Floreen
Councilmember Duchy Trachtenberg



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1 Council President Knapp,

2 Good morning everyone. Good morning. Okay. Happy Earth Day. Welcome to the
3 Wootton High School Ice Hockey team. We will get to them in just a second. But we will
4 begin our morning with an invocation by Iman Faizul Kahn from the Islamic Society of
5 the Washington Area in Silver Spring. Iman, if you would join us and I would ask
6 everyone to please rise.

7
8 Iman Faizul Kahn,

9 [speaking Islamic]. All my servants who call upon me, and I will answer your prayer. Let
10 us pray. [speaking Islamic]. Oh mighty Allah, Lord of Abraham, and Moses, and Jesus,
11 and Mohammed, and master of all our lives, full of benevolent grace and mercy, we
12 have assembled here this morning in the spirit of cooperation and understanding to
13 express our sincere thanks and seek thy blessings as we offer our dedicated service to
14 humanity through this noble institution. Oh, Lord, in these difficult and challenging times,
15 continue to guide those honored here today the empowerment to fulfill their obligations
16 to our fellow citizens and help us all to make our County a melting grounds of culture
17 and races, where men and women of different talents may find in each other the
18 fulfillment of the common humanity. Oh, Lord, continue to guide and bless the
19 righteousness all those that will serve and benefit from thy assistance. Our Lord, we ask
20 that you accept our prayer. Amen.

21
22 Council President Knapp,

23 Amen. Thank you very much. We now turn to a Proclamation in recognition of the
24 Wootton High School's Ice Hockey team for winning the Maryland State championship
25 by Councilmember Andrews. And I also understand we have the Chair of the
26 Montgomery County House Delegation, Delegate Brian Feldman, who will also be
27 coming up to join.

28
29 Councilmember Andrews,

30 Good morning. One of the great pleasures of serving on the County Council is
31 representing terrific achievement by students in Montgomery County and other folks as
32 well. Today, it is my honor along with Delegate Brian Feldman to help honor the
33 Wootton Boys Hockey team, which won the State championship and I want to have
34 them all come up and join us here now. Come join us behind the mics here. And also,
35 Principal Michael Doran, Head Coach Dave Evans, and Assistant Coach Don
36 Birkenshaw. Please join us as well. All right. Gather in tight. The, this team had an
37 amazing season. This team went 15-0. This team won the State championship coming
38 from behind 2-0 in the final game to defeat Wildlake on February 25th, right? All right.
39 And it is not easy ever to have an undefeated season. It is not easy to overcome a big
40 lead in a hockey game, like a 2-0 lead is. This team did it. And this team had a real
41 balanced approach throughout the season with everybody contributing which bodes well
42 for the next season since so many of the players were really integral, in fact, all of them
43 were integral to the success of the team. So it is really an honor to present this
44 proclamation on behalf of the County Council to you all and then Delegate Feldman has



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1 a proclamation as well from the state. Delegate Feldman represents a good chunk of
2 the Wootton cluster and is a big hockey fan I understand.

3
4 Delegate Feldman,
5 That's true. No caps here.

6
7 Councilmember Andrews,
8 Right. Glad that we could both do this today. Whereas championship seasons are the
9 result of hard work, focus, and determination, qualities that Wootton High School's Ice
10 Hockey team demonstrated in abundance in its run to the 2008 Maryland Scholastic
11 Hockey League Public School Championship. And whereas, the Patriots, after falling
12 behind by two goals in the 1st period before a record crowd at the Gardens Ice House in
13 Laurel, won their first ever league title by scoring two 3rd period goals, including one
14 short-handed, to defeat Wildlake 4-2 in the championship game. And whereas the
15 Patriots, led by Coach Dave Shaw and Assistant Coaches John Birkenshaw, Dave
16 Fapelstein, Brendan Franks, and Todd Schreiber finished with 15 wins and epitomized
17 the concept of a complete team as throughout the season, they fielded four talented and
18 hard working lines of forwards and three of defensemen. A rarity for area high school
19 ice hockey teams. And whereas 10 of the 19 skaters, the non-goalsies on the Wootton
20 roster scored at least 10 points this season, six had at least 15 points, and every skater
21 finished with at least one point. And whereas, all the players, coaches, their families,
22 and supporters deserve hardy congratulations for setting their sights high, realizing their
23 dreams, and finishing as the number four ranked team in the entire Washington
24 Metropolitan region. Now therefore be it resolved that the County Council of
25 Montgomery County, Maryland, hereby proclaims congratulations and salutes Wootton
26 High School's Ice Hockey team. And be it further resolved that the Montgomery County
27 Council joins with the entire Wootton High School community in recognizing this
28 wonderful achievement of bringing home another championship banner to Montgomery
29 County, presented on this day, April 22, 2008. Signed by Michael Knapp, Council
30 President. Congratulations guys. [applause]. I'm going to ask in just a minute that the
31 head coach say a few words and give the captains of the team, Scott Futrovsky who is
32 here and Chris Puderbaugh who is here, a chance to say a few words. But before that, I
33 want to ask Delegate Feldman to.

34
35 Delegate Feldman,
36 Well, thank you Phil. Let me just first thank Council for giving me the opportunity to be
37 added to the agenda very quickly. I know you've got some big, particularly Council
38 President Mike Knapp back there, and you Phil Andrews, a great guy, and for those of
39 you who will be voting for the very first time in 2010, one of the parents mentioned that
40 to me, you know, Phil is a good man, remember that in 2010. Let me just say, I'm here
41 on behalf of Governor O'Malley, the Maryland State Senate, the Maryland House of
42 Delegates, and the entire state of Maryland, if you will. We just got through dealing with
43 a budget deficit so our proclamations are much, much shorter in terms of, and so I will
44 read it to you on behalf of the Maryland General Assembly and Governor O'Malley. Be it



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1 hereby known to all that sincerest congratulations are offered to the Wootton High
2 School Hockey team in recognition of their outstanding performance in winning the
3 2007-2008 Maryland State Hockey League Championship presented on this 22nd day
4 of April, 2008. And with that again, congratulations on behalf of the State of Maryland
5 and for those of us in Montgomery County, we are particularly proud of all of you. [
6 applause].

7
8 Councilmember Andrews,
9 Coach Evans, would you like to say a few words about the team?

10
11 Dave Evans,
12 Thank you. I appreciate it. I just wanted to thank the Council and also the State for
13 honoring you guys, for honoring us, for honoring the families for what was an
14 outstanding accomplishment that you guys undoubtedly learned a tremendous amount
15 from and it's something that you guys can carry forever knowing that you guys came
16 together and accomplished more as a group than you ever could have as individuals. I
17 would also like to thank the school and Dr. Doran for their constant and complete
18 support. It has just been fantastic. Really great memories.

19
20 Councilmember Andrews,
21 Thank you.

22
23 Dave Evans,
24 Thank you.

25
26 Councilmember Andrews,
27 And good luck next year.

28
29 Dave Evans,
30 Thanks.

31
32 Unidentified
33 Congratulations.

34
35 Councilmember Andrews,
36 Let me have the co-captains come up now. And why don't you ask your teammates to
37 quickly say who they are so that folks out there can get a glimpse of them and hear
38 them. All right? And so, why don't you start. Come up as well and just tell a little bit
39 about what the season meant to you and where you go from here.

40
41 Chris Puderbaugh,
42 I don't think our team exactly had one superstar that, you know, gave us the success.
43 We came together as a team. Every player played every game, you know, chipped in



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1 every game. I think got us pretty far, you know, there is no I in team and, you know, we
2 definitely proved that this year.

3
4 Scott Futrovsky,
5 Yeah, I , we, as a team, just came together at the beginning of the season to overcome
6 all obstacles from losing a lot of good players last year and we proved that from day one
7 to February 25th when we came back from 2-0. I think that it really shows a lot about
8 every one of your character and the character of our school and that we don't give up.

9
10 Councilmember Andrews,
11 All right. And you are Scott, right?

12
13 Scott Futrovsky,
14 Yes.

15
16 Councilmember Andrews,
17 Scott Futrovsky?

18
19 Scott Futrovsky,
20 Yes.

21
22 Councilmember Andrews,
23 Co-captain, Chris Puderbaugh, co-captain and, let's just go down the list and just say
24 your name and what grade.

25
26 Andrew Stein,
27 My name is Andrew Stein, I'm 11th grade and I play defense.

28
29 Councilmember Andrews,
30 Great.

31
32 Steven Rubin,
33 I'm Steven Rubin. I'm in 10th grade and I play forward. Jeff Rubin, 12th grade, forward.

34
35 Andy Benn,
36 Andy Benn, 12th grade, forward.

37
38 Samey Charapp,
39 Samey Charapp, senior.

40
41 Councilmember Andrews,
42 Step up just a little bit. There you go.

43
44 Jason Burke,



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1 Jason Burke, senior, center.
2
3 PJ Hall,
4 PJ Hall, freshman, forward.
5
6 Scott Futrovsky,
7 Scott Futrovsky, senior, forward.
8
9 Chris Puderbaugh,
10 Chris Puderbaugh, senior, defense.
11
12 Josh Plave,
13 Josh Plave, senior, forward.
14
15 Neofytos Panagos,
16 Neofytos Panagos, sophomore, forward.
17
18 Chris Hogan,
19 Chris Hogan, junior, goalie.
20
21 Matt Streger,
22 Matt Streger, defense, senior.
23
24 Dennis Castagnola,
25 Dennis Castagnola, senior, forward.
26
27 Joseph Canali,
28 Joseph Canali, senior, forward.
29
30 John Zambrotta,
31 John Zambrotta, sophomore, defense.
32
33 Sam Reisinger,
34 Sam Reisinger, freshman, goalie.
35
36 Dylan Skarupa,
37 Dylan Skarupa, junior, forward.
38
39 John Cohen,
40 John Cohen, junior, forward.
41
42 Jordan Sanders,
43 Jordan Sanders, defense, eleventh grade.
44



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1 Councilmember Andrews,
2 All right. And there is one member who could not make it today, Josh Bretner,
3 freshman, defense. So, congratulations to all of you. Have a great season next year.
4 Congratulations on a terrific school, Wootton, that excels in so many ways. And I know
5 these guys are excellent students as well as excellent athletes. So, that's a great model
6 and thank you for coming out today. Good luck next season guys in whatever else you
7 do. [applause]. Oh, oh, oh, who wants a picture? All right. Okay, now you've really.
8 [MULTIPLE SPEAKERS].

9
10 Neil Greenberger,
11 We have a lot of people who want to take pictures. Amazing, hockey parents with
12 cameras, who ever heard of that?

13
14 Unidentified
15 Oh, just wing it Phil.

16
17 Neil Greenberger,
18 I need to be able to see each of your faces. If I don't see you, if you're poking behind
19 somebody, you're not going to be in the picture, so if you can't see me, just move
20 around. [MULTIPLE SPEAKERS]. Yeah, you got to find a spot. Yeah, that'll work. That'll
21 work. That's good.

22
23 Council President Knapp,
24 Congratulations. Thank you very much.

25
26 Councilmember Trachtenberg,
27 Congratulations.

28
29 Councilmember Floreen,
30 Congratulations. Way to go guys.

31
32 Council President Knapp,
33 [MULTIPLE SPEAKERS]. Okay. We will wait for just a minute for changing of the guard
34 here.

35
36 Councilmember Trachtenberg,
37 My lord, we lost our audience.

38
39 Council President Knapp,
40 We did. Thank goodness for TV. All right. Well done Council Vice-President Andrews.

41
42 Councilmember Andrews,
43 Thank you.



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1 Council President Knapp,
2 We now turn to General Business, Announcement, Agenda and Calendar Changes. Ms.
3 Lauer.

4
5 Linda Lauer,
6 Good morning. We did receive two petitions this week. One was from residents
7 supporting Bill 3-08, the Sudan Investments Restrictions Bill. And another was
8 supporting the establishment of a full-time position to assist at the Margaret Schweinhott
9 Senior Center. One change, on Thursday this week, on the 24th, the PHED meeting will
10 begin at 3:00 rather than 2:00 so that Park and Planning can be there in the afternoon.
11 Thank you.

12
13 Council President Knapp,
14 Thank you very much. Approval of Minutes, Madam Clerk.

15
16 Council Clerk,
17 Yes, the minutes of April 7th, 8th, 9th, and 10th, 2008.

18
19 Council President Knapp,
20 Is there a motion? Moved by Councilmember Ervin. Seconded by Councilmember
21 Trachtenberg. All in favor of the Minutes for April 7th, 8th, 9th, and 10th please indicate
22 by raising your hand. That is unanimous. Thank you very much. We now turn to the
23 Consent Calendar. Is there a motion?

24
25 Councilmember Floreen,
26 Move approval.

27
28 Council President Knapp,
29 Moved by Councilmember Floreen.

30
31 Councilmember Ervin,
32 Second.

33
34 Council President Knapp,
35 Seconded by Councilmember Ervin. Councilmember Trachtenberg?

36
37 Councilmember Trachtenberg,
38 Thank you President Knapp. I wanted to pull items number B and C out just for some
39 brief remarks. Again, both items are projects which we've discussed fully over the years
40 within the Management and Fiscal Policy Committee that I Chair. And again, they both
41 speak to collaboration across agency and, obviously, that is very important to this body
42 in terms of accountability, but also in terms of productivity. So I just want to
43 acknowledge the excellent effort of different departments and agencies of both efforts



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1 and to say excellent example of crosspollination and the value of collaborative work
2 efforts. So, again, I want to acknowledge all those engaged in these projects.

3
4 Council President Knapp,

5 Thank you very much. I just wanted to call people's attention to Action Resolution to
6 extend time until May 15, 2008 to consider collective bargaining agreements. This is
7 something we did a couple of years ago and given the variability we are going through
8 as we examine the various elements of the budget, we actually have the ability to
9 extend forth an additional two week period beyond our May 1st deadline. It seemed to
10 make sense as we got more information to make a better decision on May 15th as
11 opposed to considering something with only some of the information as we would
12 probably right now. So I just want to bring people's attention to that issue. I see no
13 further comments or discussion on the Consent Calendar. All in support of the Consent
14 Calendar, indicate by raising your hand. That is unanimous among those present.
15 Thank you very much. We now turn to District Council Session. We have before us
16 Action Consideration of the Hearing Examiner's Report and Recommendation
17 Application number G-874. Mr. Hearing Examiner.

18
19 Marty Grossman,
20 Good morning, Mr. President.

21
22 Council President Knapp,
23 Good morning.

24
25 Marty Grossman,
26 For the record, my name is Martin Grossman, the Hearing Examiner. G-874 is a small
27 rezoning of 0.68 acres from the R-200 Zone to the OM Zone. A property located at
28 13915 Old Columbia Pike in Silver Spring. There are no real significant issues in this
29 case. It's quite straightforward. In fact, it's an excellent example of the use of the
30 optional method to restrict, through binding elements, the size of any structures and the
31 bulk and height in order to make a rezoning acceptable in this area. The technical staff,
32 the Planning Board, and I all recommend approval.

33
34 Council President Knapp,
35 Excellent. I see no comments or questions on the part of Councilmembers. Then we
36 have before us the Hearing Examiner's Report and Recommendation. Do we need a
37 motion or, okay, is there a motion?

38
39 Councilmember Ervin,
40 So moved.

41
42 Council President Knapp,
43 Moved by Councilmember Ervin.



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1 Councilmember Floreen,
2 Second.

3
4 Council President Knapp,
5 Seconded by Councilmember Floreen. Madam Clerk, if you would call the roll.
6

7 Council Clerk,
8 Mr. Elrich.

9
10 Councilmember Elrich,
11 Yes.

12
13 Council Clerk,
14 Ms. Floreen.

15
16 Councilmember Floreen,
17 Yes.

18
19 Council Clerk,
20 Ms. Trachtenberg.

21
22 Councilmember Trachtenberg,
23 Yes.

24
25 Council Clerk,
26 Mr. Leventhal.

27
28 Councilmember Leventhal,
29 Yes.

30
31 Council Clerk,
32 Ms. Ervin.

33
34 Councilmember Ervin,
35 Yes.

36
37 Council Clerk,
38 Mr. Berliner.

39
40 Councilmember Berliner,
41 Yes.

42
43 Council Clerk,
44 Mr. Andrews.



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1
2 Councilmember Andrews,
3 Yes.

4
5 Council Clerk,
6 And Mr. Knapp.

7
8 Council President Knapp,
9 Yes. The Hearing Examiner's Report is approved unanimously. Thank you very much.

10
11 Marty Grossman,
12 Thank you sir.

13
14 Council President Knapp,
15 I appreciate it, thank you for your efforts. We now turn to Action on Zoning Text
16 Amendment 07-10, Central Business District (CBD) Zones - Amendments. The PHED
17 Committee recommends approval with amendments. On January 22nd, the Committee
18 recommended approval of ZTA 07-10 with amendments to allow the Planning Board
19 discretion to develop detailed guidelines calculating the cost of offsite amenities and
20 public use space and developing lists of possible amenities. On April 7th, the
21 Committee confirmed its January 22nd recommendations and also recommended
22 amendments to retain day care uses which was approved unanimously, add public art
23 which was approved 2-1, I believe, with Councilmember Elrich dissenting as possible
24 public facilities and amenities, add the outdoor area of day care facility as public use
25 space 2-1, I believe, with Councilmember Elrich dissenting, and removing the definition
26 of arts or entertainment entity and the footnote related to it from the ZTA, which was
27 approved unanimously. The Committee noted the definition of public amenities and
28 public use space includes green areas, a term defined by the zoning ordinance. The
29 Committee was assured by the Planning Department that the only portion of green area
30 that was open and accessible to the public would meet the definition of public use
31 space. This helps to clarify the public use space issues within the CBD zone. You have
32 before us a unanimous recommendation on behalf of the PHED Committee. I see one
33 comment. Councilmember Elrich.

34
35 Councilmember Elrich,
36 I think that the Council should amend this legislation to take out the counting of day care
37 space as public use space. Day care space is an amenity as I understand it, is offered
38 as an amenity. The developer is going to get additional density for the use of this
39 amenity and I did not have an objection to that. But to count the public use space as the
40 day care center's outdoor space is a violation of what public use space is. It is privatized
41 space that's walled off from the public, that has no utility to the public. It is being used to
42 count as the public space. I think that we need to say, let them count it as an amenity,
43 get the density bonuses that come with it, but public use space needs to retain the



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1 character of what public use space is. I think this is a bad precedent to be doing this. I
2 did not support this amendment in the Committee.

3
4 Council President Knapp,
5 Okay.

6
7 Councilmember Elrich,
8 I move to strike.

9
10 Councilmember Trachtenberg,
11 I second it.

12
13 Councilmember Elrich,
14 The use of it as a public use space.

15
16 Council President Knapp,
17 A motion made by Councilmember Elrich to strike the inclusion of outdoor area of a day
18 care facility as public use space. That has been seconded by Councilmember
19 Trachtenberg. Councilmember Floreen actually had a comment.

20
21 Councilmember Floreen,
22 Yeah. Well, I think it is a regrettable direction to go in if that is the will of the Council. As
23 many of you may be aware, I think all of us have children, the challenge of finding
24 suitable day care for our County residents is increasing by the moment. I'm told,
25 particularly by the Commission on Child Care, with which I met the other day, that
26 providers are besides themselves in terms of the availability of resources and locations
27 to satisfy this growing need. To encourage the provision of day care in urban areas
28 would seem to me to be the ultimate, one of the ultimate solutions to addressing our
29 smart growth, reduction of VMT issues that we're going to talking about under
30 Councilmember Berliner's leadership in the next few minutes. We need to make these
31 uses accessible and available where we want our residents to go. This is a small step to
32 achieve that result. I will note that the County Planning Board, although not enthusiastic
33 about this initiative, notes in their memo to us in the last page of the packet, that in any
34 event, it is up to them to make that call and to find the solution that makes the best
35 sense in the right location. And I would urge that we at least make this option available.
36 Not eliminate it. So I oppose the motion.

37
38 Council President Knapp,
39 Councilmember, Council Vice-President Andrews.

40
41 Councilmember Andrews,
42 Thank you. I had concerns about this as well because there is no argument that day
43 care is a critical need. But it is a private use. I think of amenities as serving, as being
44 open to the public, generally. Maybe that is a discussion for another day in terms of the



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1 whole amenity strategy and definition. But it doesn't conform with what I think an
2 amenity should provide, which is free public access to the amenity. The outdoor area of
3 a private day care facility is, you know, certainly isn't a generally available public space
4 even though it is a public good to have a day care center. So, I'm troubled by it as well.

5
6 Council President Knapp,
7 Councilmember Elrich. Marc.

8
9 Councilmember Elrich,
10 Sorry.

11
12 Council President Knapp,
13 That's okay.

14
15 Councilmember Elrich,
16 Park and Planning's memo says that they have difficulty using this private use as a
17 means of satisfying the amenity requirement. I was willing to go as far as to say it is
18 okay as an amenity. Because we do want to encourage the use. And the developer is
19 incentive, I mean, there is an incentive for doing it. You provide this amenity, you get
20 additional density. But I think at the end of the day, you need to retain the public use
21 function. I think that, you know, that there is room for them to work within a day care has
22 been provided. I think the example of Discovery has managed to provide day care and
23 public use space in Silver Spring. I think it is absolutely critical to retain the public use
24 function. I just think that, you know, I think if we go as far as to allow it as an amenity,
25 we're acknowledging it as a desirable use and we're incentivizing its use, there is no
26 reason to go further and give away the public use space in addition to that.

27
28 Council President Knapp,
29 Councilmember Berliner.

30
31 Councilmember Berliner,
32 I would be grateful if staff would opine on this issue as well as to advise us with respect
33 to the distinction between an amenity and public use just so we are real clear as to
34 those distinctions.

35
36 Jeff Zyontz,
37 Thank you. There are two separate definitions and two separate requirements.
38 Amenities is something that is provided in exchange for density. It is those things that
39 satisfy public needs resulting from the development. In fact, day care existed before this
40 ZTA. It was there before the Planning Board had sent over the ZTA with deleting it, the
41 Committee put it back in. So, that actually retains the position of day care. Public use
42 space is a separate requirement.

43
44 Councilmember Berliner,



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1 Could you, could I ask you to stop there? With respect to what was in place before and
2 what was deleted and then what was inserted, is that all as it relates to an amenity?

3
4 Jeff Zyontz,
5 Yes.

6
7 Councilmember Berliner,
8 Okay. So, your statement with respect to what was deleted, what was put back in, was
9 that it is fine as an amenity?

10
11 Jeff Zyontz,
12 It was there as an amenity before the Committee voted to put it back in as an amenity.

13
14 Councilmember Berliner,
15 Okay.

16
17 Jeff Zyontz,
18 Okay.

19
20 Councilmember Berliner,
21 So, it was there and we put it back in. Okay. It was always there. Yes.

22
23 Jeff Zyontz,
24 Yes.

25
26 Councilmember Berliner,
27 Okay. Thank you.

28
29 Jeff Zyontz,
30 If you had adopted the ZTA as it was introduced, it would have been taken out.

31
32 Councilmember Berliner,
33 Gotcha.

34
35 Council President Knapp,
36 That's where we want to be.

37
38 Councilmember Berliner,
39 So, that's as an amenity.

40
41 Jeff Zyontz,
42 Yeah.

43
44 Councilmember Berliner,



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1 Now, let's talk about the public use space.

2
3 Jeff Zyontz,

4 Public use space is a separate requirement. There are absolute percentage minimums
5 for the provision of space depending upon whether you're going to use optional method
6 or standard method. That is taken as a minimum. It has been something that must be
7 easily and readily accessible to the public. That is within the definition now. It is within
8 the definition as proposed. The child care provision would be an exception to that
9 general statement that it is open to the public. So in order to accommodate what the
10 Committee had suggested, there is language on line 42 of the Text Amendment before
11 you that says except for outdoor recreation area for child care day care facility, public
12 use space must be easily and accessible to the public. So it was put in as an exception.
13 It is unusual to have public use space that is reserved, that is operated by a commercial
14 activity, generally, that is revenue generating, and distinct. But, you know, if you think
15 that is the public need, then you do that. I suggested that it is an exception to what was
16 public use space before this change.

17
18 Councilmember Berliner,
19 Thank you.

20
21 Council President Knapp,
22 Councilmember Leventhal.

23
24 Councilmember Leventhal,
25 Discovery has been mentioned in the discussion earlier and I'd like, I understand that
26 we amend the zoning law and it applies to all, the entire County and anyone in any CBD
27 Zone, but Discovery has been mentioned. What would be the effect of this change in
28 law for Discovery?

29
30 Jeff Zyontz,
31 Well, I actually am not aware of Discovery's particular situation except that they wanted
32 to provide a day care center. I don't know if they have one or not.

33
34 Council President Knapp,
35 They do have one.

36
37 Jeff Zyontz,
38 They do have one. Well.

39
40 Councilmember Elrich,
41 They want to.

42
43 Council President Knapp,
44 They want to get one.



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Councilmember Elrich,
They wanted to add one in.

Jeff Zyontz,
To expand their.

Councilmember Elrich,
Right.

Jeff Zyontz,
Expand their outdoor use space into their public use area. So, in order for them not to have an additional obligation of some type, they would need to be able to count the child care space that they are, in a sense, privatizing for children, of course, and still count it as public use space. Without this type of amendment, they would not be able to count that space as public use space.

Councilmember Leventhal,
Discovery has already built its building. And it built its building as an optional method project. A certain amount of courtyard area is surrounding the building. We're talking about the main building at the corner of Georgia and Wayne?

Jeff Zyontz,
Yes.

Councilmember Leventhal,
So, a certain amount of courtyard and public access was provided. Now Discovery wants to provide day care for its employees and it doesn't have space so it wants to use this outdoor space for a playground for the children of its employees. Is that correct?

Jeff Zyontz,
As I understand it, yes.

Councilmember Leventhal,
And it would be precluded from doing so now because it has to provide a certain amount of public space?

Jeff Zyontz,
It would not necessarily be precluded from doing it. They might have other obligations because they are doing it.

Councilmember Leventhal,
Such as what?



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1 Jeff Zyontz,
2 Buying space off site. Which is exactly what this provides for.

3
4 Councilmember Leventhal,
5 Is somebody from the Planning Board here who can address this point?

6
7 Councilmember Elrich,
8 George, I heard a little bit about the Discovery case. A, they seem to have reached an
9 agreement with the Planning Board. But the other part of this was that they argued that
10 when they provided their initial open space, they actually provided an excess of what
11 would have been required. So their argument was, we are taking back some of the
12 excess. In other words, you are still getting the public space that you would have gotten
13 anyway. We are reclaiming some of this excess for a good use. We don't think we
14 should have to pay a penalty since this is more than, above and beyond what we would
15 have been required to do anyway. That was the argument that took place there. And I
16 don't have any problem, frankly, with the argument they made in that case.

17
18 Councilmember Leventhal,
19 But if that were true, then this ZTA would not be required for Discovery to accomplish
20 what it wants to accomplish.

21
22 Councilmember Elrich,
23 No. They accomplished, apparently they reached the agreement with the Planning
24 Board.

25
26 Council President Knapp,
27 If what were true? If they actually had an excess of space?

28
29 Councilmember Leventhal,
30 If what Mr. Councilmember Elrich says, that they want to reclaim some of the extra open
31 space, without violating the terms of their optional method agreement that enabled them
32 to build in the first place, then allowing the use of open space, public space for day care
33 would not be necessary as a change in law for Discovery to do what it wants to do.

34
35 Jeff Zyontz,
36 That is correct as long as they had excess space and the Planning Board was willing.

37
38 Council President Knapp,
39 Recognize that excess.

40
41 Jeff Zyontz,
42 Right.

43
44 Councilmember Leventhal,



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1 I have to say, I think we are all kind of speculating here. Is there anyone present who is
2 certain about the facts of Discovery's situation?

3
4 Councilmember Elrich,
5 It was a headline about solving the problem the other day. But there's no limit on the, I
6 mean, the entire open space, the entire public use space could be child care. In other
7 words, there could be no public use space left in a project under the terms of this.

8
9 Jeff Zyontz,
10 If that is what the Planning Board agreed to.

11
12 Council President Knapp,
13 Mr. Leventhal still has the floor.

14
15 Councilmember Leventhal,
16 Well, it is the horns of a dilemma.

17
18 Council President Knapp,
19 It is.

20
21 Councilmember Leventhal,
22 I mean, obviously, day care is desirable and you require outdoor space for children to
23 recreate in a daycare setting, but it also has to be secure from the public. You cannot
24 allow the public to have access to kids in a day care facility. So, it does seem somewhat
25 different from public use. So we have got two competing interests here.

26
27 Council President Knapp,
28 No, and that was the fact of the discussion within the Committee. I think the Committee
29 recognized that there were two competing concepts there. Each with merit. The majority
30 of the Committee erred on the side of trying to encourage and facilitate the additional
31 daycare activity, but I think, as Councilmember Floreen indicated, I think I could, you
32 know, that if it is the will of the Council to go in a different direction, that is also a
33 meritorious position, but I think the majority of the Committee thought that given the
34 conversations we've had as it relates to day care, the needs for day care, the
35 challenges a day care have, if there are a way to further enable that type of
36 development, that would not be a bad policy interest on the part of this County.

37
38 Councilmember Leventhal,
39 Is no one present from the Planning Board to share the Planning Board's views on this
40 with us?

41
42 Jeff Zyontz,
43 I think they would have told me if they were showing.



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1 Council President Knapp,
2 There is still no one. Councilmember Ervin.

3
4 Councilmember Ervin,
5 I think that part of the Council's role here is to set public policy priorities. I agree with
6 Councilmember Floreen that we want to encourage child care uses in CBD's. For those
7 of us who are working in this area, we know that we are, it is woefully inadequate what
8 we are able to provide children in this County. We need the spaces and this is way
9 beyond Discovery. There are some other projects that are coming online in the CBD in
10 Silver Spring. One is a child care facility. And so, I believe we want to encourage it as a
11 matter of public policy. And so I will be supporting Ms. Floreen's ZTA.

12
13 Council President Knapp,
14 Seeing no more discussion, we have before us an amendment to remove the notion of
15 outdoor area of a day care facility as public use space. All in favor of the amendment
16 indicate by raising your hand. Councilmember Berliner, Councilmember Andrews,
17 Councilmember Trachtenberg, and Councilmember Elrich. All opposed, raise your
18 hands. Councilmember Leventhal, Councilmember Ervin, Councilmember Floreen, and
19 myself. The motion fails for having a lack of a majority.

20
21 Councilmember Leventhal,
22 A point of personal privilege. I just want to clarify, my wife operates a day care but it is in
23 our home and I don't believe this amendment, she has no plans to collaborate with any
24 developers in CBD's. So I don't believe this amendment would affect our personal
25 circumstances in any way.

26
27 Council President Knapp,
28 Thank you. Thank you for that clarification.

29
30 Councilmember Leventhal,
31 The public does not generally have access to my yard except when I invite them.

32
33 Council President Knapp,
34 There is not a standing invitation for all of us?

35
36 Councilmember Trachtenberg,
37 You are listed in the phone book.

38
39 Jeff Zyontz,
40 Public use space has a very distinct set of rules that applies.

41
42 Council President Knapp,
43 It doesn't relate to George's yard. I don't think so, unless he's CBD Zoned.



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1 Councilmember Leventhal,
2 I'm not located in a CBD.

3
4 Council President Knapp,
5 Okay. All right. We have now, seeing no more discussion on the ZTA, Madam Clerk, if
6 you would call the roll.

7
8 Council Clerk,
9 Mr. Elrich.

10
11 Councilmember Elrich,
12 Yes.

13
14 Council Clerk,
15 Ms. Floreen.

16
17 Councilmember Floreen,
18 Yes.

19
20 Council Clerk,
21 Ms. Trachtenberg.

22
23 Councilmember Trachtenberg,
24 Yes.

25
26 Council Clerk,
27 Mr. Leventhal.

28
29 Councilmember Leventhal,
30 Yes.

31
32 Council Clerk,
33 Ms. Ervin.

34
35 Councilmember Ervin,
36 Yes.

37
38 Council Clerk,
39 Mr. Berliner.

40
41 Councilmember Berliner,
42 Yes.

43
44 Council Clerk,



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1 Mr. Andrews.

2
3 Councilmember Andrews,
4 Yes.

5
6 Council Clerk,
7 Mr. Knapp.

8
9 Council President Knapp,

10 Yes. The ZTA passes unanimously. Thank you all very much. We now turn to
11 Legislative Session Day number 13. We have Introduction of Expedited Bill 14-, oh
12 sorry, Madam Clerk, do we have Approval of the Legislative Journal for April 8th?
13 Correct? Is there a motion to approve such Legislative Journal?

14
15 Councilmember Trachtenberg,
16 So moved.

17
18 Council President Knapp,
19 Moved by Councilmember Trachtenberg.

20
21 Councilmember Ervin,
22 Second.

23
24 Council President Knapp,
25 Seconded by Councilmember Ervin. Any discussion on the Legislative Journal? Seeing
26 none, all in support, indicate by raising your hand. That is unanimous. Thank you all
27 very much. We now have Expedited Bill, Introduction of Expedited Bill 14-08 Forest
28 Conservation Advisory Committee - Composition, sponsored by the Council President
29 at the request of the County Executive. A public hearing is scheduled for May 6th at
30 1:30 p.m. We now Call of Bills for Final Reading. First up, we have Expedited Bill 5-08,
31 Taxes - Personal Property Tax - Electric Generating Equipment. Turning to the lead for
32 energy environment. Councilmember Berliner.

33
34 Councilmember Berliner,
35 Thank you Council President. This is an unfortunate legacy of our state's deregulation
36 experiment. We have Brian here that I know would share.

37
38 Council President Knapp,
39 I think he's heading under the chair.

40
41 Councilmember Berliner,
42 Thought with respect to that. It is a, when the state decided to deregulate and to permit
43 the sale of all the Pepco's facilities to third party generators, it decided that it would
44 reduce the property tax that those generators pay by 50%. To make up the difference



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1 for many years, the State Legislature and the Executive provided us a grant that would
2 keep us whole with respect to that matter. That has now ended and now we have a
3 temporary partial response to the gap that otherwise exists by allowing counties to
4 increase the personal property tax to 65% for the first year, 60% the second year, 55%
5 the third year, and then going back to the state mandated 50% thereafter. My
6 colleagues and I explored the extent to which this would have implications for anyone
7 other than the generator that exists today, which is the Morant facility. We are
8 convinced that as of this moment, that is the only facility that would be affected by this.
9 It would give us \$1.8 million more than we would otherwise get out of a gap of, I believe,
10 2.8 or so, 2.6 was it?

11
12 Bob Drummer,
13 Actually, it is \$1.8 million over the three years.

14
15 Councilmember Berliner,
16 Yes.

17
18 Bob Drummer,
19 And we were receiving \$2.8 million a year.

20
21 Councilmember Berliner,
22 Thank you. So, it is only a modest filling in of that which existed. Councilmember
23 Leventhal had expressed concern as to whether or not the scope of this would include
24 our own County facilities potentially that could be generating within the next three years.
25 That is clearly not the case insofar as County facilities are excluded from this. It is not to
26 say that it is possible that at some point we may have a private generator within the
27 three years. If that is the case, we will certainly take it up at that point in time. But as of
28 this moment, I think we are real clear that this is as close to a no-brainer as it gets and
29 would urge my colleagues to vote in favor of it.

30
31 Council President Knapp,
32 Okay. T&E Chair, Councilmember Floreen.

33
34 Councilmember Floreen,
35 Thank you Mr. President. Since we have a member of the General Assembly enjoying
36 the morning with us, I did want to direct his attention to the loss to Montgomery County,
37 that the loss of the electricity deregulation grants has on us. We have to make that
38 revenue up some way. This goes to a certain degree to help. But by no means,
39 completely helping. What our staff report on this says is that the grants that Montgomery
40 County is no longer receiving from the state were worth approximately \$2.8 million per
41 year. This Bill, we projected to increase County revenue approximately \$1.74 million in
42 total over three years. So that's what, an over \$2 million loss each year that
43 Montgomery County residents are otherwise going to have to backfill. So we enlist
44 members of our local delegation in support of a way to fix this problem. Thanks.



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1
2 Council President Knapp,
3 Madam Chair. Seeing no, oh, no? Additional comments?
4
5 Councilmember Floreen,
6 No.
7
8 Council President Knapp,
9 Okay. Seeing no further discussion, Madam Clerk, if you would call the roll.
10
11 Council Clerk,
12 Mr. Elrich.
13
14 Councilmember Elrich,
15 Yes.
16
17 Council Clerk,
18 Ms. Floreen.
19
20 Councilmember Floreen,
21 Yes.
22
23 Council Clerk,
24 Ms. Trachtenberg.
25
26 Councilmember Trachtenberg,
27 Yes.
28
29 Council Clerk,
30 Mr. Leventhal.
31
32 Councilmember Leventhal,
33 Yes.
34
35 Council Clerk,
36 Ms. Ervin.
37
38 Councilmember Ervin,
39 Yes.
40
41 Council Clerk,
42 Mr. Berliner.
43
44 Councilmember Berliner,



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1 Yes.

2
3 Council Clerk,
4 Mr. Andrews.

5
6 Councilmember Andrews,
7 Yes.

8
9 Council Clerk,
10 Mr. Knapp.

11
12 Council President Knapp,
13 Yes. Expedited Bill 5-08 passes unanimously. Thank you all very much. We now turn to
14 a series of Bills that were introduced by Councilmember Berliner and sponsored by
15 many other Councilmembers. And so we can do that as we get to each of the individual
16 pieces of legislation. So a little bit of a choreography going on this morning, so I was
17 going to turn to, in a moment turn to Councilmember Berliner, our lead for energy
18 environment, for some introductory remarks and turn to the Chair of the T&E Committee
19 to walk through the first set of Bills and then to the Chair of the MFP Committee for
20 those bills that were referred to the MFP Committee, and I believe, Council Vice-
21 President just disappeared, that there is one Bill that went to the, no, actually, isn't with
22 the Public Safety Committee, went to the MFP Committee. So, we don't have to turn to
23 yet a third Committee. I just wanted to make a couple of quick remarks. And today being
24 Earth Day, I appreciate the focus that Councilmember Berliner has provided us as it
25 relates to global climate change. It is clearly an initiative that the entire region is
26 focusing on. Councilmember Floreen is heading up the climate change initiative down at
27 the Council of Governments. I believe that you are also on that Committee as well. And
28 the Council of Governments is looking at how do we reorient the programs down there
29 to make sure that that is actually a standing Committee and we'll have
30 recommendations coming forward in the coming month. But I think the thing that
31 intrigues me the most is, I think, I believe it was in today's Washington Post, the
32 concern that this is a fad. That Earth day is something that we focus on today. And that
33 we're not, it's not necessarily gaining traction. And I think given the legislation that this
34 Council will focus on in the remainder of the morning, puts Montgomery County in a
35 position to make sure that this is not just a passing fancy. This is something that we as
36 a community are focused on to ensure that global climate change is an issue that is
37 real, and one that we are working to address. I think that as people are watching, both
38 in the audience and on TV, that what you will see here before you today is a
39 commitment to ensuring that our community is better for generations to come as a result
40 of what we are doing here today. Not that this is going to change everything, but sets a
41 foundation for us to move forward. And so I appreciate the efforts of the Committees
42 that have worked, the efforts of the lead sponsor for the legislation, and all my
43 colleagues to their commitment in what we're doing in global climate change initiatives.



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1 So, with that, I will turn to Councilmember Berliner for some brief introductory remarks
2 and then to the Chair of the T&E Committee.

3
4 Councilmember Berliner,

5 Thank you Council President and my remarks will be brief. It is an honor to serve as this
6 Council's lead on energy and the environment and, particularly, on Earth Day, to begin
7 that process and to kick it off with this package of Bills. I totally agree with your
8 comments. I too saw the article in the Post today with respect to whether or not it is a
9 green for today and tomorrow is what? Well, the package of Bills that we have before us
10 will make an enduring and significant contribution. It is not a fad. It is something that we
11 will be doing that makes a difference. There are seven Bills that we will be considering
12 shortly, 25 different initiatives within them. It is comprehensive because we are
13 attacking literally every source of greenhouse gas emissions that exist. We're talking
14 about our transportation fuels. We're talking about our land use decisions. We are
15 talking about renewable energy. We're talking about energy conservation. We're talking
16 about energy building efficiency. We have within the scope of these Bills, tree canopy
17 initiatives. There is literally nothing that we have failed to include within the scope,
18 including trying to make our multifamily homes more energy efficient so that renters
19 have an opportunity to have reduced utility bills as well. So, I think the net
20 consequences of our actions today will be that we will ensure that our County and our
21 citizens use less energy, make a greater contribution to our greenhouse gas initiatives
22 that we fulfill this County's commitment to be a cool County, which was not an
23 insignificant commitment that this County made. It is a commitment that says that we
24 have pledged to reduce our greenhouse gas emissions by 20% by the year 2020 and
25 80% by the year 2050. This is going to take a lot of work. Today's action is literally just a
26 down payment with respect to that. We are trying to do all the things we can that are the
27 lowest of the low hanging fruit and the decisions that we will have before us in the years
28 ahead will get increasingly more difficult. But, these package of Bills has been improved
29 by the work of my colleagues, but for one little item that we will be discussing. With one
30 little exception, this package has gotten better. I thank my colleagues for their support
31 with respect to it. I thank the Committees for their good work with respect to this. And
32 look forward to discussing these items as we go through them.

33
34 Council President Knapp,

35 Thank you Councilmember Berliner. I would just also like to note that this, we are
36 making great efforts today, but we have also been working as a Council through the
37 leadership of Councilmember Leventhal and ensuring that we're taking, wind energy
38 purchases and incentives for homeowners, that there are other measures that this
39 Council has taken prior to this year that have also been significant in making sure that
40 Montgomery County is working in the right direction. So, I believe this Council, this
41 County is committed to making sure that we are working in the right direction. I see that
42 prompted a light. Councilmember Leventhal. Before I turn it to the T&E Chair.

43
44 Councilmember Leventhal,



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1 Well, I appreciate the Council President's remarks and I support, overwhelmingly
2 support, the preponderance of the provisions that Councilmember Berliner has put
3 forward. I did want to just point out that, as both the Council President and the sponsor
4 of the Bills have stated, we are at some risk here of making gestures and then not
5 following through. I just want to bring to my colleagues' attention again, as I did during
6 the public hearings on these Bills, that there is a program in law now and staff dedicated
7 to that program called the Clean Energy Rewards Program under which Montgomery
8 County makes it easy, or made it easy for residents to purchase clean renewable
9 energy by providing a rebate of 1 cent per kilowatt hour. The program experienced
10 dramatic success, increasing clean energy consumers from less than 500 County wide
11 to nearly 3,000 and reducing greenhouse gases by an estimated 11,500 tons by the end
12 of 2007. The County spent \$182,900 for rewards paid to consumers resulting in a cost
13 of \$16 per ton of carbon dioxide reduced. When these funds ran out in January, County
14 Executive Ike Leggett, facing a budget shortfall of \$300 million suspended the program
15 rather than requesting additional funds from the County Council. We also have in place
16 an energy policy that calls for the procurement of 20% of the County's electricity from
17 wind by 2011. We are currently purchasing 10% of our electricity from wind. Out of \$27
18 million in total electricity costs, the County pays \$257,000 more per year for electricity
19 than if all its power came from coal or nuclear. Buying 10% of the County's power from
20 wind reduces more than 11,000 tons of carbon dioxide emissions each year at a cost of
21 about \$23 per ton of carbon dioxide reduced. DEP is now pondering whether to achieve
22 the goal of 20% because it might cost some hundreds of thousands of dollars more. I
23 have been, I am meeting again, I think, this afternoon with DEP. I have been
24 communicating with DEP about how best to invest these dollars. As we move to the
25 establishment of the sustainability working group, we need to be much clearer about
26 how much it is costing us and how much carbon dioxide we are in fact reducing. The
27 question that we need to ask ourselves in the deliberations of the sustainability working
28 group, persistently is, what does this conversation have to do with carbon reduction?
29 We have already terminated one program that was achieving significant success in
30 carbon reduction. The County Executive has given the Department of Environmental
31 Protection a directive, if we're going to pursue carbon reduction goals, it has to be in a
32 budget neutral, zero-cost manner. I have done a back of the envelope calculation based
33 on the OMB cost estimates of the seven Bills that are before us now and at a minimum,
34 if you take the lowest range of OMB's cost estimates on these Bills, it is \$1.5 million in
35 the first year, 1.5 million that is not in the County Executive's budget for fiscal '09. We
36 had a program, an effective program, low cost, reducing tons of carbon dioxide, it was
37 suspended because we could not find a couple hundred thousand more dollars to put
38 into it and no request came from the Executive to do that. The proposal in the current
39 budget is to maintain the same level of spending in '09 as was spent in '08, which would
40 mean that those people who already qualified for a clean energy reward could continue
41 to get it and virtually no one else could get it. So, we would not expand the incentives
42 for clean energy under the existing law. Councilmember Floreen has proposed that we
43 should increase energy taxes based on carbon emissions. But her proposal does not
44 address wind power which is the most cost effective way for home electricity consumers



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1 to purchase non-polluting, non-carbon emitting sources of energy. Mr. Berliner and I
2 have been in communication with the Department of Environmental Protection and I just
3 want to make sure my colleagues are aware of this, because it is my hope not only that
4 we will enact these Bills this morning, but that we will continue the programs we already
5 enacted. And that we will enact these programs and, in fact, do them, which will cost
6 some money. It won't occur in a budget neutral, zero-cost fashion. And all of my
7 colleagues and I have been reading the Washington Post over the last few days. It isn't
8 going to be free. But the costs of not reducing carbon, the costs of climate change, are
9 going to be far, far greater. We just don't see them much. We saw Hurricane Katrina.
10 We are seeing some impacts. But the long-range impact of hurricanes and flooding and
11 climate change and drought and increase in food prices and refugees and all of these
12 things are going to be far, far greater. So, if we move ahead today, and I hope we will,
13 and I will support this package, we're not going to pay for this today. But in the next few
14 weeks, we've got to look at including funds in the budget to actually make this happen.
15 It is time to stop issuing press releases and holding press conferences, and it is time
16 actually to achieve measurable reductions in carbon dioxide emissions. I appreciate the
17 efforts of Mr. Berliner in this package to do that. I hope we will get back on track with
18 those efforts that have already been made in that regard and it will cost money.

19
20 Council President Knapp,
21 Thank you Councilmember Leventhal. Chairwoman Floreen to walk us through the first,
22 I believe, the first four Bills. And I think we're going to do them a little bit out of order.

23
24 Councilmember Floreen,
25 We're going to rearrange them a little bit.

26
27 Council President Knapp,
28 Yeah, because they kind of build off each other and so we reference some things in
29 other pieces of legislation that we need to make sure we lay out. So I think we're going
30 to start with Bill 32-07.

31
32 Councilmember Floreen,
33 32-07.

34
35 Council President Knapp,
36 Okay.

37
38 Councilmember Floreen,
39 That is right. And if I could make just a few comments before we begin. And I will just
40 say, poor Mr. Berliner has gotten caught in the switch between, in our Committee
41 reassignment. So I'm just going to, I guess what I will do on each Bill is make the,
42 summarize the Committee's recommendations and then turn to Mr. Berliner to fill in the
43 details on them. I did want to say I have spent most of the last year in deep
44 conservation across the region and across the state on these kinds of initiatives, both



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1 from the position of Chairing the Regions Climate Change Steering Committee and also
2 in my service on the mitigation working group that is providing recommendations to the
3 Governor's Climate Change Commission. I will tell you that the package, frankly, what
4 we were already doing what puts us as a leader within the state and the region and
5 possibly the country. What I am told, routinely, is that Mr. Leventhal's Clean Energy
6 Rewards Program and our wind power initiatives have made us leaders in the state and
7 the region and also deliver the most bang for the buck. So I think what we need to
8 remember is that this is all part of a package and the major improvements that can be
9 achieved is not from the governmental sector, but from the private sector. If you, the
10 analysis of greenhouse gas emissions indicates that for, the private sector contributes
11 96% of the problem. So our governmental initiatives are good and desirable, but it is
12 going to be the private sector that is going to have to contribute in the most significant
13 way to our solving these issues. There are many pieces to these Bills and the challenge
14 is making sure, as Mr. Leventhal has said, that we do get the most bang for the buck.
15 Because in these times of constrained fiscal issues, we really do have a problem in how
16 we finance this stuff. And it is my hope that with the carbon surtax proposal I introduced
17 last week, at least we will be able to not lose ground. We'll see how we end up in the
18 overall budget, but I do think we need to consider all these pieces together and make
19 sure that we're really delivering to the community a genuine product. Because there is
20 some skepticism about the press releases versus the doing versus the measurable
21 impact. That's something that I hope that the Council of Governments, Mr. Chair of the
22 Council of Governments, I think you're going to take that up in June now. And we will
23 have an aggressive set of recommendations. We are only though, as a County, a small
24 player in what can truly happen at the regional and state levels. And I do applaud the
25 General Assembly because although it did not achieve everything on the global
26 warming Bills that were before it this year, it did agree to set some goals and that is
27 what gets us going. There are many steps, though, to get there. We do have to weigh
28 the cost effectiveness of our initiatives and the benefits to the regional community. With
29 that, what I'm going to do is start out with 32-07 because that basically sets the
30 framework for the conversation that Councilmember Berliner has gotten us started on.
31 32-07, which the Transportation Infrastructure, well, we weren't, well, we are now, the
32 Transportation Infrastructure Energy Environment Committee recommends that we
33 enact. This directs what we are creating, directs the creation of a climate protection plan
34 for the County that will work through these details on behalf of us in the County to
35 organize our, help us organize our thoughts and get us to where we want to go.
36 Basically, it requires the Director of the Department of Environmental Protection, and I
37 don't know if you want to come on down Mr. Hoyt, in case you want to weigh in, directs
38 them to create a climate protection plan by January 1, 2009. And that would outline a
39 plan to reduce County wide greenhouse gas emissions by 80% by January 2050. A plan
40 to stop increasing County wide greenhouse gas emissions by 2010. And to reduce
41 County greenhouse gas emissions by 10% every five years until 2050. This would also
42 evaluate, with the Director of the Department of Finance, the costs and benefits of
43 converting our existing fuel energy tax to a carbon tax and recommend whether or not
44 the County should join a cap and trade program. I will note that we did have some



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1 pushback from the Planning Board as to functions. They indicated that their work
2 program included environmental initiatives and the like. And we said, well, you're going
3 to have to work together to move us forward. We are not going to be herding cats.
4 We're going to have an organized approach. This basically sets up a framework for
5 putting together an overall plan and overseeing its implementation within the County.
6 This piece of legislation also includes the structure of what we are calling the
7 sustainability working group. With that, I'll turn it over to Mr. Berliner if you want to take
8 us through the rest of the details.

9
10 Council President Knapp,
11 Councilmember Berliner.

12
13 Councilmember Berliner,
14 I would direct my colleagues to page 11 and 12 of the packet for you in which we
15 specify the items that need to be in our climate.

16
17 Council President Knapp,
18 Page or circle 11.

19
20 Councilmember Berliner,
21 I apologize, circle 11.

22
23 Council President Knapp,
24 Okay.

25
26 Councilmember Berliner,
27 Thank you.

28
29 Councilmember Leventhal,
30 Which agenda item are we on?

31
32 Council President Knapp,
33 We on 32.

34
35 Councilmember Berliner,
36 We are on 32-07.

37
38 Councilmember Floreen,
39 Number 10, it is number 10.

40
41 Councilmember Berliner,
42 As the Chair of the Committee observed, this is, if you will, the organizing framework
43 and our desire was to ensure that we get really very nitty gritty recommendations back
44 as to how we're going to move forward. We don't want this to be an empty gesture. We



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1 want accountability here. And so, in the first nine months, the County Executive had
2 requested that we embrace their desire to have a sustainability working group that
3 would be in charge of producing this climate action plan. And the Committee was fine
4 with doing that and supporting the County Executive's desire with respect to that, as
5 long as the result was something very specific, as long as this sustainability working
6 group did in fact focus first and foremost on a climate protection plan. So, every year,
7 we are going to be hearing from these folks, not only as to what their strategy is, but
8 how are we doing. Are we measuring up? Are we meeting our obligations? And, if you
9 take a look at some of the things that we've asked them to look at, we have asked them
10 to look at entering into a voluntary cap and trade program. I share with my colleagues,
11 there is what is called the Chicago Climate Exchange in which a number of other
12 counties are currently participating, King County, Sacramento County. Significant
13 counties are participating in this because, in part, they see that the wave of the future is
14 that we will have a national cap and trade program. And I believe that that will be the
15 case at some point in our future. Secondly, it is an independent means of ensuring
16 accountability. Because in fact, you have a financial play here. So when I met recently
17 with one of the supervisors from Sacramento County and I asked him, how do you
18 make sure that you guys really are going to fulfill your obligation, he said the single most
19 important step we took was to join the Chicago Climate Exchange because if we don't
20 meet our contractual obligation to reduce our emissions, we pay. And that discipline
21 produced the desired result. So, in this legislation, we are only asking the County
22 Executive to come back to us and give us a recommendation with respect to cap and
23 trade. We are asking for the County Executive similarly to come back with whether or
24 not there should be a carbon tax, and in the meantime, of course, our colleague has
25 gone forward with a carbon tax surcharge that I believe I certainly will be supportive of
26 as long as we frame it appropriately and, in fact, fund our measures. But it is going to be
27 an important initiative and we want the County Executive's thought with respect to it. It
28 identifies a tree canopy initiative. Maintaining our tree canopy is a significant element of
29 this plan and should be and we need to hear from the County Executive with respect to
30 that. We need to reduce our vehicle miles traveled. How are we going to do that? That's
31 what we need the County Executive to come up with a strategy with respect to that. And
32 certainly we need to reduce our own fleet's use of gasoline and make sure that we have
33 the most fuel efficient fleet possible. This includes that in our climate action plan. All of
34 these elements and more are within our climate action plan and will be required to come
35 back to us in January, January 15th, I believe. It will help us form the framework of
36 those things that we are looking at whereas the rest of the package, of course, has
37 individual items in it that we are going to be implementing as opposed to studying. But
38 this gives us our study framework and our assurances that the actions that we are about
39 to take are not gestures, but in fact are meaningful.

40
41 Council President Knapp,

42 Okay. We've got a couple questions. Councilmember, Council Vice-President Andrews.

43
44 Councilmember Andrews,



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1 Thank you Council President Knapp. I want to thank my colleague, Councilmember
2 Berliner, for the tremendous amount of work that he did and I know that his aide, Karen
3 Williams, did on this package. I think she set a record for pedestrian miles traveled in
4 the hallway working on this legislation and Roger, this has been, I k now, something you
5 have worked on over the past year. And it reflects that there is no one initiative that is
6 going to, by itself, make the difference. It is a collection of initiatives that's needed to
7 make a significant impact in this area. And of course, others need to act as well. Many
8 are. So, it is part of a larger effort that needs to be made. As, I want to highlight one
9 addition to this, which I'm very glad that was added by the Transportation Infrastructure
10 Energy and Environment Committee. I still have to read it but I'm getting it.

11
12 Councilmember Floreen,
13 I think we're.

14
15 Councilmember Andrews,
16 This is a very important amendment that was added by the Committee that would
17 identify a strategy to reduce vehicle miles traveled in the County. This is crucial because
18 even if fuel efficiency improves, and even if air pollution from vehicles is reduced, if
19 vehicle miles traveled increases by an offsetting amount, you are not making progress.
20 We need to make reductions and net reductions. So, it is crucial not only to see cleaner
21 cars and to have different technologies that are reducing pollution, but it is also
22 essential to see an actual reduction in vehicle miles traveled in order to have the type of
23 impact we really need to have. And so I want to highlight that which was added to the
24 Bill in Committee and which will make a big difference in the long run if we are able to
25 achieve it. One of the themes that my colleagues have heard me talk about this year
26 with regard to the budget is, when you are in a hole, stop digging . In order to get out of
27 it, you first need to stop digging it deeper. I think that is true with a lot of the things that
28 we face in the budget. And I have to comment that our job in reducing vehicle miles
29 traveled in the County will be made much harder if the ICC goes on and is fully
30 constructed. Because the state's own study about the Inner County Connector projects
31 that it would add more than half a billion miles to the net of vehicle miles traveled in the,
32 what's called the ICC study area of the County which is a big part of the County. It's
33 bordered by 270, the Beltway, the Howard County line, and basically a line from
34 Gaithersburg east to Howard County. So, if we are going to have to try to offset an
35 additional half a billion miles a year of net vehicle miles traveled, that is not going to be
36 easy and our job will be harder. And we better get started soon because that will be a
37 challenge to overcome. I was disappointed that the state rejected a Bill this year that
38 would have subjected the ICC to a global warming analysis and it may be one of the last
39 major highways in the country that avoids going through that. I certainly hope all future
40 highways have to be looked at in that light as well as the other environmental
41 considerations and other considerations that they must go through. But I do want to say,
42 I think this is an excellent package, that this amendment is a very important one. I
43 commend the Committee for adding it. There is no one answer to this. We need to do a
44 lot of different things. I also agree with Councilmember Leventhal. We don't want to lose



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1 progress. We step back on things we're already doing, there'd be no work. We need to
2 keep those initiatives going and add these to them. So I thank my colleague for his
3 leadership. I thank the Committee for its very serious consideration and for adding that
4 to this Bill and I look forward to working with my colleagues to help advance these this
5 year and next.

6
7 Council President Knapp,
8 Councilmember Ervin.

9
10 Councilmember Ervin,
11 Yes, I would like to weigh in too and congratulation Councilmember Berliner on his very
12 thoughtful approach. I've cosponsored five of the seven Bills and one of the things that
13 I'm most concerned about, and I think Councilmember Leventhal and Councilmember
14 Floreen spoke to it, and that is that DEP is now going to be charged with increasing
15 their workload tremendously, it appears to me. I sent a letter on April 11th to Mr. Hoyt
16 and to the Chair of the T&E Committee or the new Committee, Councilmember Floreen,
17 asking that the T&E Committee receive a briefing from DEP that summarizes how this
18 legislation will affect your Department, Mr. Hoyt, and the Department's implementation
19 plans. Whether or not you can absorb the workload from these initiatives with your
20 current staff, and if not, well we still have a few more weeks of budget worksessions,
21 what will it cost us to really fully implement all of the initiatives that are before us? And I
22 think that is a really important concern. I also want to thank Councilmember Berliner for
23 continuing to focus on what I think is really an important focus and that is on multifamily
24 dwellings, 60% of my district live in apartment buildings and I want to make sure that we
25 don't lose the focus from those folks, not only in this specific, you know, Bill that we are
26 talking about right now, but in the education piece, that we don't leave out huge
27 segments of our community in the conversation about global warming. So, yesterday, I
28 rode the bus again. I know my colleagues are hearing about this and I rode the bus, I
29 stood in the pouring rain. Got very drenched. But what really concerns me is that as we
30 talk about these initiatives, the focus on transportation and how people move around
31 this County is very important. It took me an hour and a half, again, in rain but what I did
32 notice yesterday, was more buses filled to capacity. We have an opportunity, and I
33 believe an obligation, to the residents of our County while we are talking about these
34 initiatives to have a real serious public policy conversation about mass transit. I know in
35 the CIP, we've had some issues with the CIP. But, as we move forward in the next three
36 or four years, that we really focus our energy and our attention on getting more buses.
37 Because the folks that I'm talking to, a lot of people don't have an choice. They don't
38 own a car. But those who do own cars are opting out of driving. But when they see the
39 options that are available to them, there aren't many. And so I just wanted to make sure
40 that we really focus on that and I congratulation Councilmember Berliner. I want to work
41 very closely with him. I see some members of the Sierra Club here who I've been
42 having conversations with about how to really broaden the conversation about global
43 warming to all segments of our County and not just some. I think it is a really important
44 issue. Thank you.



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Council President Knapp,
Councilmember Elrich.

Councilmember Elrich,

I'm very happy to be a cosponsor on Roger's Bills. I think they are an important step forward. There is always more to do. I just read a New York Times article that did a lengthy critique for example of the LEED standards and the ability to pick and choose things that are relatively insignificant and still get a lead rating. And then I think we critically need to move beyond LEED into Energy Star and energy efficiency standards for buildings. Those things are coming. But I guess the question is whether Montgomery County stays in the lead or whether Montgomery County follows. And I think it is important for the County to stay in the lead. I want to second Phil's comments about the ICC. That is an absolutely incomprehensible road project in the light of global warming. It makes no sense. The environmental damage that it does is not going to be easily reversed, whether it is the air pollution or the destruction of the streams and forest cover, this is a mistake that will not be fixed. But I think the bigger issue is really the reduction of vehicle miles traveled. We saw a COG report last summer and COG had three projections for the metro area. They were a 48% increase in CO2 gases by 2030 under doing business as usual, an increase in the 20s if a standard of, higher standard of vehicle emissions were passed, and a number down to about 16% increase over 2002 levels if the strictest standards imaginable were passed by the federal government. Those standards were not adopted by the federal government. This is just an increase over 2002 levels. We are supposed to be talking about getting back to 1990 levels of CO2. I asked Ron Kirby, who works down at COG to disaggregate Montgomery County's CO2 numbers from the regional CO2 numbers and to give me an idea of what it would take to drive the CO2 numbers, the 2030 numbers, first back to 2002 levels and then back to 1900 levels. And the answer I got was actually encouraging because usually, when you say you need to knock down CO2 levels and have to switch people to transit, the public reaction is, oh my god, everybody's not going to ride the bus, this is never going to work. Well, it turned out that about an 8.3% reduction of VMTs from the 2030 number gets you back to 2002. Somewhere between 15 and 20% gets you back to 1990. We are not in the universe where everybody has to get out of a car in order to make this work. I think we are in a universe where there is a tangible and attainable number of people that we need to switch from car to transit in order to knock our CO2 numbers down. I'll add parenthetically that those same reductions in VMTs do wonders in terms of opening up road capacity and making the road, the existing road network work in a much more efficient way. So I think there are dual benefits to be had from a concerted effort to knock down VMTs. But we're not going to knock down VMTs as long as we continue on a development pattern that does suburban style development in ever increasingly dense policy areas. You cannot rely on the car and allow the amount of car traffic that we currently permit and expect to have any significant reduction in CO2. And so while it is true that the government needs to make difficult choices and spend money, we also need to make difficult choices and



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1 impose the kinds of standards we want that achieve the auto usage levels that we need
2 to achieve. That is not going to happen voluntarily. The Council, I think, the County
3 needs to make a decision to move in that direction. I understand full well that mandating
4 a change tomorrow would be absolutely pointless given the state of the County's
5 transportation system. We could not move workers to where they need to go from
6 where they live if we wanted to. We don't have the bus capacity. We don't have the rail
7 capacity. We don't have the lines in place. And more importantly, every bus would be
8 stuck in traffic with everybody else. And it is not an acceptable solution. But we need a
9 plan to move us toward a transit network, an affordable transit network that can move
10 enough people to get them to where they live, to where they work, that we can viably
11 say it's time to constrict the amount of parking that we allow in our Central Business
12 Districts. These two things have to come together. If they don't come together, we're not
13 really going to reduce CO2. We can buy all the wind power we want and it is not going
14 to make any difference in this region's CO2 level. We either need to make the decision
15 to take away the number one polluter and reduce its use by providing alternatives or
16 basically, we are going to be doing symbolic actions. And I feel very strongly we need to
17 move, as other people have said, behind symbolism and speeches and move to the
18 development of a totally coherent plan for reducing CO2 which requires addressing
19 transit. The CCT and the Purple Line don't do it. They absolutely don't do it. The CCT
20 and the Purple Line in and of themselves are not enough to knock down CO2 levels.
21 So, we're going to need to go beyond where we are into a serious discussion about our
22 transportation system and how we move people from their homes to their work. And I
23 look forward to those discussions. I am encouraged by some of the signs. Womata's
24 talked about adding rapid bus systems to extend their network. That is a critical step in
25 the right direction. We are going to need to look to do more. And I hope that we engage
26 in a long hard discussion about that.

27
28 Council President Knapp,
29 Okay. Councilmember Trachtenberg.

30
31 Councilmember Trachtenberg,
32 Last set of remarks, Council President Knapp.

33
34 Council President Knapp,
35 Oh boy.

36
37 Councilmember Trachtenberg,
38 Felt obligated to make at least some opening comments. And I want to start off by
39 acknowledging my colleague, Councilmember Berliner for his work on this entire energy
40 plan. I know before Roger got here, there were a number of people, if not everyone,
41 sitting on this body who understood that we needed to start developing a cohesive
42 energy plan. But I would recognize that Roger has done yeoman's work here at moving
43 us forward and I want to acknowledge his meticulous effort and his ability to listen with
44 all of us, with his colleagues. I know this to be true because of the hard work that we did



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1 within MFP on three of the Bills and I think, again, this is a shining example of a
2 collective effort and, again, Roger, I want to thank for your leadership on it and I'm going
3 to suggest to my colleague, Councilmember Berliner, that when we get to the MFP
4 items, I'm going to let you walk through them, which is what we followed as practice
5 within Committee. That doesn't speak to my lack of interest in the items at all. It speaks
6 to a rather rough sore throat. That is not a product of yesterday's worksession within
7 MFP, but really more a product of a harried Passover schedule over the last three days.
8 But I salute my colleagues for our collective commitment to protecting the earth and
9 sharing it as well and protecting its resources, but most importantly, protecting its future.

10
11 Council President Knapp,
12 One last comment Councilmember Leventhal and then I actually had a couple pieces,
13 couple questions on the legislation.

14
15 Councilmember Leventhal,
16 Okay. All right. Thank you Mr. President. The assertion was made a few minutes ago
17 that the largest source of pollution is vehicle miles traveled. That's not correct. The
18 largest source of pollution in Montgomery County, by far, is the – coal fired electricity
19 plant. If we substantially invested in reducing the amount of our electricity that was
20 powered by brown power, coal power and significantly increase the amount of our
21 electricity that 's generated by clean power, wind, solar, or other sources of clean
22 power, it would make a dramatic, the largest reduction in CO2 emissions. Vehicle miles
23 traveled, I agree with what my colleague said about them, they're very important but
24 transportation is not the largest source of pollution. The largest source of pollution is
25 buildings, the second largest source of pollution is power generation. Transportation is
26 the third. Transportation is responsible for about 30% of carbon emissions. So, one of
27 the values, I think, of this, and I don't negate anything that was said about
28 transportation, but it is not the largest source of pollution, it is not the largest source of
29 CO2 emissions, so, one of the values, I think, of the sustainability working group is that
30 it will include representatives from the scientific and academic communities. All of us as
31 a society are going to school on these issues. There has been a cascading, as we all
32 know, of public awareness of these things. I don't claim to be an expert in the field of
33 climate change as my colleagues have and as they've all recited. We are all doing a lot
34 of reading, we're all getting up to speed on it. I do think it will be important that the
35 sustainability working group help us to prioritize, help us to identify what are indeed the
36 largest causes of carbon dioxide emissions. We all make some assumptions. There is
37 all of this emphasis on cars and SUVs and hummers and all of that which is a piece of
38 the puzzle, but not the largest piece of the puzzle. So it will be important that the
39 sustainability working group give us actual facts and data and do real measurement and
40 so, VMT is an issue, wind power is a major issue, clean energy is a major issue. I don't
41 know why a colleague would feel compelled to say one piece of this puzzle won't do it.
42 All of these pieces of the puzzle need to come together and be invested in it.

43
44 Council President Knapp,



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1 Okay. I actually had two questions on the legislation. First, to the point that
2 Councilmember Ervin raised, is it possible, Mr. Hoyt, given the efforts of both the
3 working group and the other things that you could potentially get us an estimate as to
4 what the impact to the DEP budget would be above and beyond what has been
5 recommended by the Executive, since obviously the Executive didn't have the benefit of
6 this legislation prior to putting his budget together sometime in the next week or so.

7
8 Robert Hoyt,
9 Absolutely. I believe I just, we are delivering the letter in response to Councilmember
10 Ervin's questions momentarily.

11
12 Council President Knapp,
13 Okay.

14
15 Robert Hoyt,
16 So, you will have that. We will have that.

17
18 Council President Knapp,
19 I just want to make sure we know what we're trying to shoot for as we start to do this
20 budget calculation. Okay. Great. Thank you. And then, I guess everyone has talked
21 about both the local impact and the things we need to do in our County and yet, I think
22 it's become very clear, at least in our interactions both on statewide and regional
23 boards, this is not, we are not in this alone. I mean, we're going to have to make sure
24 we do a lot of things. And so, to that end, one of the things I was wondering, if you look
25 at circle six, it talks about the Executive must invite one representative from each of the
26 following to serve as an ex-officio member. They are all County entities. If it would not
27 make sense in that capacity to have at least an invitation to some of our regional
28 entities, perhaps Maryland Association of Counties and the Council of Governments
29 since there are policies and practices in place, and I don't know if they are the right
30 entities, but I think at least COG because we are putting plans together there. I don't
31 know if MACO or the other taskforces that the state has put together, but to have them
32 as included so we have not just our local perspective, but we have an understanding of
33 how it fits within our regional context.

34
35 Councilmember Berliner,
36 Council President, I would be delighted to accept a friendly amendment with respect to
37 that. I do think COG, as Councilmember Floreen is one who is serving on the steering
38 committee, you as President of COG, and our work in COG to develop a regional
39 approach and best practices throughout the region, it may serve us well to at least invite
40 for them to be participating as perhaps an ex-officio member or otherwise to make sure
41 that they are aware of and contributing to without necessarily voting on the County's
42 initiatives.

43
44 Council President Knapp,



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1 I was going to say, as an ex-officio, you could even put it as F, as G, and appropriate
2 regional entities, or appropriate regional organizations because I'm not even sure if it is
3 one, two, three, but to get.

4
5 Councilmember Berliner,
6 Yes.

7
8 Council President Knapp,
9 Something like that.

10
11 Councilmember Berliner,
12 I would add it as the ex-officio.

13
14 Council President Knapp,
15 Okay. And those, and then, the only other question I had.

16
17 Councilmember Floreen,
18 On this.

19
20 Council President Knapp,
21 Oh.

22
23 Councilmember Floreen,
24 If I could just say, you know, it is fine to invite input from all these people but actually,
25 we are the ones that they are looking to. We are actually the ones who are setting the
26 template for this stuff. Our staff is starting to staff the Council of Governments on these
27 issues. Rather than the other way around. They have access to good data and they are,
28 our people are very embedded, as it were, in the processes that are going on in the
29 region. I just want to say perhaps what you are looking at is a direction to ensure
30 consultation with regional leaders because that is a better, I think, use of their expertise.
31 This is actually, is not the dreaming group. This is the doing group. What are we going
32 to do tomorrow? How exactly are you going to change that school or that municipal,
33 address that municipal need? How is it going to impact our personal economic
34 development initiative? This is not, you know, the global think tank.

35
36 Council President Knapp,
37 No, no.

38
39 Councilmember Floreen,
40 And so I just urge caution in adding on here because we are, you know, the rubber
41 really is hitting the road with this Committee. It's going to be a significant job for them.
42 So I would like to introduce that thought as you work through this.

43
44 Council President Knapp,



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1 Okay.

2
3 Councilmember Berliner,
4 Council President, if I could in response. I do want to say that whereas Montgomery
5 County is taking a leadership role in many areas, there are other governments in our
6 region.

7
8 Council President Knapp,
9 Sure.

10
11 Councilmember Berliner,
12 Who are doing things that in fact we are hoping to emulate.

13
14 Council President Knapp,
15 Okay.

16
17 Councilmember Berliner,
18 I would point out that whereas we have in this package and this Bill a request for a
19 telecommuting plan, that Fairfax County is way ahead of Montgomery County. And so
20 every day that we talk about the traffic in Montgomery County, the fact that we don't
21 have a telecommuting plan in Montgomery County that is real, that is meaningful, and
22 that produces a reduction in our traffic to me is an embarrassment. The fact that
23 Arlington County had adopted bio-diesel way in advance of our County is another
24 example of how we learn from each other.

25
26 Council President Knapp,
27 Right.

28
29 Councilmember Berliner,
30 And yet I do believe that this plan, when we are done today, will put this at that very top
31 echelon. But I think it's important to note that we do learn from each other and we're not
32 the only folks that have done good things in this region.

33
34 Council President Knapp,
35 No, I agree and that was kind of my point was to get the, to make sure that the line of
36 communication is open. Not the visionary so much as just to make sure we know what
37 everyone else is doing was the rationale behind this. And then the only other question I
38 had was, and I don't know, as we do these kind of commissions or groups, do we, is it
39 typical that we would just kind of identify a number and then say they ought to come
40 from this group or do we actually specify numbers from each group?

41
42 Michael Faden,
43 The way it is on circle seven, paragraph four reflects the more recent other Bills you've
44 passed to create groups.



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1
2 Council President Knapp,
3 Okay. So, we just say here's a number and make sure we have got the mix of these
4 people in it.

5
6 Michael Faden,
7 Right. And then when you review the Executive's nominations you.

8
9 Council President Knapp,
10 Make sure that it looks the way it should.

11
12 Michael Faden,
13 Right.

14
15 Council President Knapp,
16 Okay. All right.

17
18 Michael Faden,
19 If I can clarify the last amendment you've talked about, it sounded like it morphed into a
20 requirement to consult with regional and statewide organizations, is that correct?

21
22 Council President Knapp,
23 I can make a formal motion. I would make a motion to add an item G under, on page,
24 circle seven, under number three that just has an ex-officio member, appropriate
25 regional organizations.

26
27 Michael Faden,
28 So it's one person. Okay. Regional, not necessarily statewide?

29
30 Councilmember Berliner,
31 That's correct.

32
33 Council President Knapp,
34 Okay.

35
36 Councilmember Berliner,
37 If I could, Council President.

38
39 Council President Knapp,
40 Just a second.

41
42 Councilmember Berliner,
43 Just a second? That's fine.



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1 Council President Knapp,
2 I don't see any objection, okay.

3
4 Councilmember Berliner,
5 One point that I failed to observe before we hopefully vote on this matter is that this is
6 an Expedited Bill because we do want the sustainability working group to begin
7 immediately. It is not, I believe, highlighted as such but I do want to make sure that my.

8
9 Council President Knapp,
10 Actually, it is not expedited yet. We actually need an amendment to make it expedited.

11
12 Michael Faden,
13 The Committee did recommend that.

14
15 Council President Knapp,
16 Right.

17
18 Michael Faden,
19 Your staff neglected to put that amendment in this.

20
21 Council President Knapp,
22 Okay.

23
24 Councilmember Berliner,
25 This was.

26
27 Council President Knapp,
28 So, the Committee recommendation is an expedited Bill.

29
30 Councilmember Berliner,
31 Was to make it, right.

32
33 Michael Faden,
34 Right.

35
36 Unidentified
37 Yes.

38
39 Councilmember Floreen,
40 Yes.

41
42 Council President Knapp,
43 Okay. All right. Thank you. Is there further comment on the legislation? I see none. Let's
44 go ahead and we can just do individual roll call votes as we go through them. Since this



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1 is an Expedited Bill, that requires six votes in the affirmative for passage to have it be
2 expedited. Madam Clerk, if you would call the roll.

3
4 Council Clerk,
5 Mr. Elrich.

6
7 Councilmember Elrich,
8 Yes.

9
10 Council Clerk,
11 Ms. Floreen.

12
13 Councilmember Floreen,
14 Yes.

15
16 Council Clerk,
17 Ms. Trachtenberg.

18
19 Councilmember Trachtenberg,
20 Yes.

21
22 Council Clerk,
23 Mr. Leventhal.

24
25 Councilmember Leventhal,
26 Yes.

27
28 Council Clerk,
29 Ms. Ervin.

30
31 Councilmember Ervin,
32 Yes.

33
34 Council Clerk,
35 Mr. Berliner.

36
37 Councilmember Berliner,
38 Yes.

39
40 Council Clerk,
41 Mr. Andrews.

42
43 Councilmember Andrews,
44 Yes.



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1
2 Council Clerk,
3 Mr. Knapp.

4
5 Council President Knapp,
6 Yes. The Bill 32-07 Environmental Sustainability - Climate Protection Plan passes
7 unanimously. And that is as an Expedited Bill. Thank you very much. We turn to, I
8 believe, Bill number 12. This where we going next?

9
10 Councilmember Floreen,
11 Yes. Let's turn to Bill number 12, this is the Planning Procedures on Greenhouse Gas
12 Emissions, Bill 34-07.

13
14 Council President Knapp,
15 Okay, so let me clarify that, so, it is item number 12 on our Agenda, Bill 34-07. Planning
16 Procedures.

17
18 Councilmember Floreen,
19 Correct.

20
21 Council President Knapp,
22 For those following along.

23
24 Councilmember Floreen,
25 Correct. And the theory here is we're moving along from the County staff
26 implementation overview structure approach to the global thinking approach in planning.
27 This Bill clarifies that the Planning Board must include a carbon footprint analysis when
28 considering a plan's potential impacts on greenhouse gas emissions. Basically, the Bill
29 directs that the County Planning Board, when preparing plans, must assess the plan's
30 potential impact in that area. I will say that I did not support it in Committee. Not
31 because I did not agree with the object, but because I looked at the rules and realized
32 that we have identified very few County priorities in that set of current rules for Planning
33 Board analysis. So I am going to solicit advice from my colleagues and introduce
34 legislation that adds a few other pieces as well, primarily housing impact and Council
35 priorities. This reminded me, in Committee at least, that we need to be clear about our
36 priorities as a Council as we direct the Planning Board to do its work. We rarely go back
37 to this fundamental structure set of rules within the County Code for addressing County
38 priorities. And that is why I did not support this in Committee. But I am certainly going to
39 support it here. This Bill also directs the Planning Board to consider ways to reduce,
40 otherwise to reduce vehicle miles traveled in the County as has been addressed earlier.
41 I just have to say, based on the comments of my colleague a few minutes ago with
42 respect to speeches and action, I would hope that means that the Council will, or at
43 least certain members of the Council, will start revisiting some of its growth policy
44 initiatives that actually have forced upon the County a far more suburban standard for



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1 travel than has been in the past. That is the issue with the LATR standards. That is the
2 issue with the recently adopted PAMR approach that basically requires, focuses on
3 vehicular speed of travel through the County as a priority. We will see how that goes.
4 But I have to point out, there is an inherent, an inconsistency in some of our talk here. In
5 any event, this Bill is recommended by the full Committee. I'll turn it over to Mr. Berliner
6 to make any additional comments.

7
8 Councilmember Berliner,

9 Thank you, Chair Floreen. I would simply say, there really isn't much more to it than just
10 what's here. This does three things. It says the Planning Board look at the carbon
11 footprints when you're doing your development and figure out how you can minimize
12 them and look at VMT. And all those things are important. They have not been, as the
13 Chair has observed, it has not been a requirement to do so. We began getting it in the
14 Twinbrook master plan, of seeing that analysis. Now we are simply saying that is
15 exactly the kind of work you need to do and you need to do it consistently so that, land
16 use is such a significant part of the overall issue as it relates to greenhouse gases so
17 this, make sure that we are addressing that piece as well.

18
19 Council President Knapp,

20 I just had one question. Do we have, first Councilmember Leventhal, do we have
21 anybody from the Planning Board that's come yet? Oh. Okay. You are. Same question
22 as I asked for, to Mr. Hoyt because we went through the Planning budget yesterday and
23 it is pretty emaciated right now. There is not a lot of room in there for extra anythings
24 even if they are the part of something else. To the extent that during the course of our
25 deliberations over the next week or so, if we get an assessment as to potential costs,
26 just so we have some idea of what we are trying to do because I am very cognizant of
27 the comments of my colleagues, that if we're going to do this then we actually need to
28 do it, but we need to figure out because we basically took out everything that was an
29 enhancement or an initiative in yesterday's worksession, so that'd be helpful. Thank
30 you. Councilmember Leventhal.

31
32 Councilmember Leventhal,

33 Well, on that point and the packet addresses this, we have already energy analysts in
34 DEP who have been working to establish a carbon inventory for the County. And this
35 sustainability working group is going to build on that work. It seems to me one of the
36 biggest challenges, I mean, I read earlier some statistics about carbon reductions from
37 these wind power initiatives that we've embarked upon and DEP has jumped around
38 quite a bit. They've given me different sets of numbers when I've asked at different
39 times. That is not a criticism. We are beginning now to try and achieve a consistent
40 baseline method of measuring carbon emissions. I think that DEP should be in the lead
41 there and just as we turned to OMB to give us fiscal estimates, it seems to me we
42 should turn to DEP to give us carbon footprint estimates and that we ought not develop
43 parallel bureaucracies, one at DEP and one at Park and Planning.



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1 Council President Knapp,
2 Sure.

3
4 Councilmember Leventhal,
5 So although Park and Planning, you know, it states here in the packet, you know, in the
6 Twinbrook sector plan, they have language that we found satisfactory to achieve the
7 intent of this Bill, as we get more sophisticated at our modeling in DEP, I would hope
8 Park and Planning would use DEP's methodology and even ask DEP to do the
9 modeling so that we have one set of numbers and that they're consistent across
10 agencies.

11
12 Council President Knapp,
13 Well, to that end, because this actually came up yesterday during the PHED Committee
14 worksession, that everybody working together is somewhat of a new phenomena, if we
15 can actually get everyone to do that. I realize that that, but, to that extent, then we don't
16 have that framework, as I understood it, the sustainability working group is basically in
17 place to try and establish, put that framework in place. Is that correct? I mean, I guess I
18 would ask the lead sponsor.

19
20 Councilmember Berliner,
21 Yes, and we have had a number of conversations between the Executive Branch and
22 Park and Planning and I think we have now reached a level of accommodation that
23 would, in fact, respond favorably to Councilmember Leventhal's objections, desire with
24 respect to this. That is, we are not trying to duplicate the expertise of DEP and Park and
25 Planning. On the other hand, we are not asking DEP to be the planners.

26
27 Council President Knapp,
28 No.

29
30 Councilmember Berliner,
31 And we do expect that, Park and Planning to be aware of what the effect is of particular
32 developments on greenhouse gas emissions. We do want them to borrow and learn
33 from and use DEP's methodologies, absolutely, we are not looking to have silos on this
34 particular issue within our County government and I think there's a clear understanding
35 and acceptance of that. And it was why we were able to work out the language with
36 respect to the sustainability working group the way in which we did because it did reflect
37 an understanding that had been reached and I believe will continue to be honored by
38 these organizations.

39
40 Council President Knapp,
41 I guess then the question I would have is, given that the working group will take some
42 time to get its efforts under way, and I think they're reporting back in January.

43
44 Councilmember Berliner,



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1 January 15th.

2
3 Council President Knapp,

4 Do we want to tie this expectation of when we would expect to see this type of
5 information to be provided consistent with the report or that working, of when they've
6 actually put that framework in place?

7
8 Councilmember Berliner,

9 Well, I wouldn't say that. If I could, Council President, insofar as we are expecting, for
10 example, to have a White Flint sector plan and other sector plans come before us prior
11 to January.

12
13 Council President Knapp,
14 Right.

15
16 Councilmember Berliner,

17 I am not asking for a quantitative modeling approach until that capacity is in fact
18 available. Until then, it is more qualitative approach and we have said that we found the
19 Twinbrook acceptable for purposes of today and where we are today and when we get
20 more sophisticated, that sophistication will be added to it.

21
22 Council President Knapp,

23 Well, and to that end, in the course of your figuring out what you are going to send over,
24 what that interplay would be between Park and Planning and DEP, and so it may not
25 necessarily be something that has to require you doing a lot of new stuff. It may be
26 actually reliance upon DEP.

27
28 Councilmember Berliner,
29 That's right.

30
31 Council President Knapp,

32 We just need DEP to be able to know that and make sure that they include their
33 estimates so we know what we're funding on the other side. Okay. Council Vice-
34 President Andrews.

35
36 Councilmember Andrews,

37 Thank you. I wanted to add on to something that Councilmember Berliner just
38 mentioned which is, the White Flint sector plan I think is an excellent opportunity for the
39 Planning Board to look at development through, partially at least, the lens of vehicle
40 miles traveled. The Planning Board is working on this plan now. They are looking at
41 somewhere in the area of 15,000 housing units in the White Flint area next, near the
42 Metro so it presents a great opportunity to minimize the amount of vehicle travel while
43 adding a significant amount of housing. I urged, when we had the discussion with the
44 Planning Board a couple of weeks ago, push the envelope here. Look at minimizing



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1 parking. Look at providing, requiring free Metro passes to everybody that moves there
2 as long as they live there. Look at a car sharing service that people have access to a
3 few hours a week or month as an alternative to bringing a car with them. Let's push the
4 envelope on this one.

5
6 Council President Knapp,
7 Councilmember Trachtenberg.

8
9 Councilmember Trachtenberg,
10 I actually want to add some information to the comments provided by the Vice-
11 President. There is a presentation in my neighborhood tonight about the White Flint
12 master plan. I understand there are representatives of the developers going to be there.
13 I'm not sure if anyone is coming from Park and Planning. And again, it would be a nice
14 opportunity to talk about the very issue that was raised by Vice-President Andrews.
15 Because again, as I've said very publicly before, I think this is one of those opportunities
16 to give the community a full understanding of what the real full potential can be with the
17 planning that goes on around White Flint and vehicle, decreasing vehicle use should be
18 discussed.

19
20 Council President Knapp,
21 I would just add to the Council Vice-President's comments as well. I agree. We actually
22 started this conversation in a little taskforce I Chaired out of COG is to, what are you
23 shooting to try and get to? Are you shooting for reduction of CO2? Are you shooting for
24 a reduction of vehicle miles traveled? What is it that we're trying to get to? Because a lot
25 of our plans right now are reliant upon kind of doing the same thing, but tweaking it
26 differently and hoping to get to a different outcome as opposed to assuming a different
27 outcome altogether and backing down that road. I think what's going to be important for
28 us over the course of the next year and as the sustainability working group puts forward
29 is to be able to quantify what is it we think we're trying to get to so then we have a plan
30 and can start to help meet those objectives because otherwise, I think to some extent,
31 you're kind of shooting in the dark. I mean, I agree with you that it's a matter of how you,
32 what criteria do we put out there that people are trying to get to?

33
34 Councilmember Andrews,
35 Right. Well, I think the two would be, the two goals, and these are not specific quantified
36 yet, but Councilmember Elrich pointed out, rightly I think, that to the extent that we can
37 reduce vehicle miles traveled will make, it will help the existing road network function
38 better because there's a tipping point and if you can bring traffic down below the tipping
39 point, you can have a substantial improvement in flow and congestion levels, 3, 4, 5%
40 difference can make a huge difference in traffic flow.

41
42 Council President Knapp,



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1 Looking at the pedestrian element, the commercial density, the residential density, all of
2 those pieces, even from an economic development perspective, all those pieces will
3 come into play. Councilmember Elrich.

4
5 Councilmember Elrich,

6 I just wanted to respond briefly to Councilmember Floreen's comments. I didn't realize
7 that gridlock was a vehicle miles reduction strategy or a mass transit strategy. In fact, I
8 did not have the, I didn't run saying I was going to end gridlock, so, apparently gridlock
9 was an undesirable thing. I mean, I think the reality is and the concerns in the growth
10 policy were that to the extent that we totally bollocks up our roads, nothing moves. Not
11 just the cars, but also the buses. And we were heavily dependent, as the
12 Councilmember who's experiencing the ride from Silver Spring to Rockville has pointed
13 out, on buses for transportation. We don't have other means of getting from many parts
14 of the County from where people live to where they work. So I do think it is important to
15 set standards to make sure that things do move because if cars are bad and buses are
16 worse, it is going to be very, very hard to get people to use transit options. We need to
17 find a way to, I think, as Phil has said, you know, take advantage of transit, use that to
18 free up space on our roads. Not use transit as a way of keeping the roads full, but as a
19 way of shifting the balance from cars to the buses and other forms of mass transit. So I
20 don't think that, you know, there is anything inherent of what we did that was antithetical
21 to goals of trying to reduce VMT and trying to reduce our carbon footprint. I look forward
22 to continuing to discuss the growth policy for many years to come.

23
24 Council President Knapp,

25 Okay. I see no more comments on Bill 34, oh, except for our staff.

26
27 Michael Faden,

28 Mr. President, one technical amendment from this morning from Planning Board legal
29 staff which we concur with on circle three of that Bill, the first words, in addition to,
30 should be replaced by, as part of.

31
32 Council President Knapp,

33 Okay. Where are you?

34
35 Michael Faden,

36 Circle three of this packet, Bill 34-07.

37
38 Council President Knapp,

39 In addition to changes to as part of.

40
41 Michael Faden,

42 Yes, to make it clear that this is all within the authority granted.

43
44 Council President Knapp,



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1 Okay. So that's on line 32 on circle three under article two. As part of the factors. Okay.
2 Everybody got that? Any problem? I see none. Okay. Thank you for that technical
3 amendment. Seeing no additional conversation, Madam Clerk, if you would call the roll
4 for Bill 34-07 Planning Procedures.

5
6 Council Clerk,
7 Mr. Elrich.

8
9 Councilmember Elrich,
10 Yes.

11
12 Council Clerk,
13 Ms. Floreen.

14
15 Councilmember Floreen,
16 I don't know, with that last circle change. Okay. Yes.

17
18 Council Clerk,
19 Ms. Trachtenberg.

20
21 Councilmember Trachtenberg,
22 Yes.

23
24 Council Clerk,
25 Mr. Leventhal.

26
27 Councilmember Leventhal,
28 Yes.

29
30 Council Clerk,
31 Ms. Ervin.

32
33 Councilmember Ervin,
34 Yes.

35
36 Council Clerk,
37 Mr. Berliner.

38
39 Councilmember Berliner,
40 Yes.

41
42 Council Clerk,
43 Mr. Andrews.



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1 Councilmember Andrews,
2 Yes.

3
4 Council Clerk,
5 Mr. Knapp.

6
7 Council President Knapp,
8 Yes. Bill 34-07 passes unanimously. We now turn to Agenda item number 7, Bill 29-07
9 Environmental Sustainability - Climate Protection - Motor Vehicles .

10
11 Councilmember Floreen,
12 Thank you, Mr. President. This Bill, again, sort of focuses our attention on what we as
13 government can do, primarily it focuses on what is now the Department of
14 Transportation and its objective of improved vehicle fuel economy. It addresses the
15 need for our Fire and Rescue Service workers to inventory its use of emergency
16 vehicles and develop a strategy to limit, to use those vehicles appropriately in the right
17 conditions, and directs a sustainability working group to study the cost and benefits of
18 creating a car share program. It also requires that the sustainability working group look
19 at our internal issue with respect to sport utility vehicles and we're hoping that we will be
20 able to more significantly limit the use of those vehicles than we have been able to do in
21 the past. I will say that we have addressed this piecemeal over the past several budget
22 years, and we have generally looked to ourselves to be a leader in this area already
23 assigning ourselves the obligation of constructing government buildings that achieve
24 LEED silver objectives and continuing to work on what government can do to LEED by
25 example, and I will say, that is one area where the governmental authorities throughout
26 the region and the state are prioritizing as well. So with that, the T&E Committee
27 recommends Bill 29-07, Environmental Sustainability - Climate Protection - Motor
28 Vehicles. Mr. Berliner.

29
30 Councilmember Berliner,
31 Just highlight for my colleagues just a couple of items, one, it codifies what I believe this
32 Council has been successful in convincing the Executive Branch to do. Councilmember
33 Leventhal in particular has been very forceful on this issue and that is that our County
34 fleet will use biodiesel and we'll use B-20 except where in those instances where it
35 cannot. So that change alone makes a significant contribution to a reduction in our
36 greenhouse gas emissions. It also, as the Chair observed, with the support of the
37 Executive Branch, and I was pleased with respect to this piece of it, which was that the,
38 I think there is a recognition that we have too many SUVs in County service, and not
39 surprisingly, those who have them tend to cling to them and tend to justify their use and
40 now the Executive Branch has agreed that it will establish criteria by which one is going
41 to have to raise their hand and say, boy, I really need this SUV, and there's going to be
42 a judgment made as to whether or not one really needs that SUV because quite frankly
43 we need a lot less SUVs. I had originally had language in here that would have required
44 a specific increase in our fleet averages for our fuel economy. That seemed to be



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1 problematic. We replaced that language with just a directive and an understanding that
2 we would get a report back on how we could significantly increase the fleet averages
3 over where we are today. And so I think that was an improvement and an
4 understandable one. And finally, I would say that we have asked for the sustainability
5 working group to explore a car share program which other communities have adopted.
6 Philadelphia has a very strong one. Other communities are doing this. The Chair of the
7 Committee wanted to make sure that we included the private sector possibilities in that.
8 We do have commercial companies that are providing a car share option. We just want
9 to make sure that this County explores that and adopts something that makes sense for
10 it. With that, I think those are the major issues and would ask for the Council's support.

11
12 Council President Knapp,

13 The only comment I wanted to raise was on page three, in the inventory of Fire and
14 Rescue Service vehicles, I am in agreement and generally sympathetic to what the
15 Committee has recommended, I just want to be careful that we don't end up doing, we
16 don't end up trying to force our Fire and Rescue Service jumping through hoops in a
17 way that somehow has an impact on, in any way, on their ability to actually address
18 public safety which is their first and foremost requirement. Mr. Leventhal.

19
20 Councilmember Leventhal,

21 We discussed that point extensively in the T&E Committee with Chief Carr, and he
22 made what, in my judgment, were compelling cases for why on any given day if
23 personnel are on an engine and they are going from one call to another, you don't
24 necessarily want them to have to go back to the fire station, replace the engine with a
25 car, meanwhile someone is gasping for air or having a stroke or, you know. So all we
26 are asking FRS to do is think about this issue within the parameters of their primary
27 mission as responding to emergencies, and then how do you do that in a fuel efficient
28 manner? So Chief Carr, you know, got into, provided some useful explanations for why,
29 and I see it in constituency, you know, why is a fire truck responding to a non-fire
30 emergency, and the answer may be because they were on their way to a fire, and it was
31 the quickest way to get to the emergency and other examples like that that made sense
32 to the Committee. So Chief Carr was comfortable with this requirement, he concurred
33 with this requirement, and did not feel that it interfered with his Department's mission.

34
35 Council President Knapp,

36 No, and that's all, and I guess my comment is as much for us as it is for them is to
37 recognize that I think it's fair of us to expect them to contribute and to participate, but we
38 also need to recognize that they are there to provide public safety and to the extent that
39 we give them some latitude in making sure that they do that. I think it's important for us
40 to remember. So I just wanted to get that out on the record. Okay. I see no more
41 comments. Madam Clerk, if you would call the roll on Bill 29-07 Environmental
42 Sustainability - Climate Protection - Motor Vehicles.

43
44 Council Clerk,



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1 Mr. Elrich.
2
3 Councilmember Elrich,
4 Yes.
5
6 Council Clerk,
7 Ms. Floreen.
8
9 Councilmember Floreen,
10 Yes.
11
12 Council Clerk,
13 Ms. Trachtenberg.
14
15 Councilmember Trachtenberg,
16 Yes.
17
18 Council Clerk,
19 Mr. Leventhal.
20
21 Councilmember Leventhal,
22 Yes.
23
24 Council Clerk,
25 Ms. Ervin.
26
27 Councilmember Ervin,
28 Yes.
29
30 Council Clerk,
31 Mr. Berliner.
32
33 Councilmember Berliner,
34 Yes.
35
36 Council Clerk,
37 Mr. Andrews.
38
39 Councilmember Andrews,
40 Yes.
41
42 Council Clerk,
43 Mr. Knapp.
44



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1 Council President Knapp,
2 Yes. Bill 29-07 passes unanimously. We now turn to Bill 30-07, Buildings - Energy
3 Efficiency, Agenda item number 8.
4

5 Councilmember Floreen,
6 Thank you, Mr. President. This is the last area for the T&E Committee to weigh onto.
7

8 Council President Knapp,
9 Big one.
10

11 Councilmember Floreen,
12 And this is one where there is some disagreement. Generally, the Committee supports
13 the direction of this Bill. And the direction of this Bill is to focus on new construction
14 within the County, to ensure that achieves energy efficiency, and it does require the
15 County, which we had no difficulty with, to develop an energy baseline, energy unit
16 savings plan, and energy cost savings plan for each existing County building. And that
17 this focus on energy performance contracts to make sure, although we have corrected
18 this to D.O.T. no, haven't we, Mr. Faden? We're on Bill 30-07. This is all, I guess it's
19 general services. Yeah. Have we made the appropriate corrections in the Bill language?
20 In this fast-moving world of government reorganization, it's easy to drop a ball. In any
21 event, the direction that we completely concur with is the initiative to, for the County to
22 assess itself and to develop plans for reducing energy usage in County facilities. Where,
23 at least the Committee at that time, was not able to concur was the direction that the Bill
24 focused on, which was to require commercial and, all commercial and residential
25 buildings to meet what are known as Energy Star requirements. What I thought when I
26 first signed on to this was that meant acquiring Energy Star appliances, which are easily
27 available. What we discovered in the course of our analysis is that it's a whole building
28 structure, approach to building buildings in the County that would require, basically
29 require the adherence to new building standards as well as outside certification of
30 compliance with the Energy Star approach. Some of us on the Committee were
31 concerned with that. We have just finished a series of initiatives where we have already,
32 we are now requiring a single family detached home to pay us \$31,000 in impact fees. A
33 detached unit is subject to a \$24,000 bill, and a garden apartment is subject to about a
34 \$16,000 bill, just to get through the permitting process. This would add an increase in
35 what are anticipated to be about \$650,000 in permitting expenses, would have to be
36 reimbursed by permitting fees to allow this approach to continue, and some of us felt, at
37 least, that this was too much to add on at this point. We heard concerns from the
38 building industry as to the difficulty of acquiring review individuals in the field who could
39 perform this function. We heard from, that there was a learning curve that all the
40 agencies would have to go through. We also heard that the international building code
41 that's under the, we've just gotten a new revision of the building code that the County is
42 adopting. We just got that this month for 2006. That includes some new energy
43 efficiency requirements, and that in 2009, it's expected that the international building
44 code to be produced then, that would be adopted in Maryland, would actually exceed



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1 Energy Star requirements. So what the Committee recommended was that the
2 sustainability working group look at options to encourage builders of residential
3 buildings to achieve the appropriate Energy Star requirement rating rather than require
4 this obligation at this point as recommended in the Bill. I know that Councilmember
5 Berliner feels differently and has a proposal to introduce, but this is one where we were
6 concerned about A, adding on to an already very costly process within the County, and I
7 think it affects further affordability of units. We were informed, as you can see in the
8 packet, that there would be an impact on, could be some impact on affordable housing
9 right now that their agencies associated with the construction of these units are doing
10 their best to include energy efficiency elements as well. But again, it will be a cost that
11 someone is going to have to pay, and some of us felt that it was going to come from the
12 pockets of our residents and that this was not the year in which to add on. So that is the
13 Committee recommendation, and I will turn it over to Mr. Berliner.

14
15 Councilmember Berliner,

16 Thank you, Chair Floreen. I would like to spend some time with my colleagues on this. I
17 have an amendment that is part of your package which would, in fact, make a
18 requirement that all new homes in Montgomery County meet Energy Star, and I'm going
19 to spend just a little time sharing with you why I believe this is important. First of all, it
20 represents a 15 to 30% increase in energy efficiency over that which exists today in the
21 County. The 2006 standards, which have not yet been adopted in Montgomery County,
22 are actually thought by some to be no greater than that which existed in 2003. The
23 2009, we have a letter from one of the participants in that process who says that there's
24 no assurance that we are going to get stronger in 2009 than what we have had in 2003
25 and we should not wait for that. I would say to my colleagues that this amendment that I
26 am offering is supported by a broad coalition of national, regional, and local
27 environmentalists, by business interests and students. Let me pass out to you, just so
28 you make sure you have before you, the full list of folks who have endorsed this
29 amendment, and I am going to be pressing this point, in part, because this measure is
30 the single biggest measure in terms of making a contribution to our greenhouse gas
31 emission reductions. It is estimated that this measure alone could achieve savings of
32 approximately 7,000 tons a year, greater than any other single measure that we have
33 considered to date. Recognizing, as my colleagues have said, that we need to do all of
34 it, this one does the most. It is worth fighting for. It is worth having a civil conversation
35 about it, and perhaps disagreeing, but it is worth fighting for. It is why the Alliance to
36 Save Energy supports it, why the Natural Resources Defense Council supports it, why
37 the Friends of the Earth supports it, the Sierra Club, the Chesapeake Climate Action
38 Network, the Business Council for Sustainable Energy, the North American Insulation
39 Manufacturing Association, the EPDM Roofing Association, and the Polyiso Insulation
40 Manufacturing Association. We have a bunch of folks who have weighed in and said
41 this is the right thing to do. Why is it the right thing to do? Because we will reduce our
42 energy consumption by 15 to 30% in these new homes. What does that mean? It
43 means lower utility bills for these homeowners. It also means that for those of us, for all
44 consumers in an era in which we are looking at the possibility of rolling blackouts in the



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1 future because we don't have enough energy coming into the state of Maryland, this is
2 how we help all our consumers from having Pepco having to go out and buy very
3 expensive power. It improves the reliability of our system so if you care about reliability,
4 if you care about the cost of electricity on the market, this is an important step in that
5 regard. So it not only reduces the homeowner who actually buys a home with Energy
6 Star, but it helps reduce it for everybody, and then of course it reduces greenhouse gas
7 emissions, again, 7,000 tons a year. And finally, what the breadth of this support
8 underscores is, it produces green jobs. I mean, there's a reason why the polyiso
9 insulation manufacturers support it, there's a reason why the roofers support it, there's a
10 reason why the Sustainable Business Council on Energy supports it, because this is the
11 next wave of the green economy. This is how we produce green jobs. So it does all of
12 that. Now, there's one significant source of opposition. Just one. And they are
13 significant, and it is our local builders. And they have made it clear that they are very
14 nervous about this. And it is coming at a very difficult time for them. There's no question
15 about it. Our local building industry, like our national building industry, is suffering. And it
16 is suffering from a national economic climate. It is suffering from a national credit crunch
17 that is making it harder for people to buy homes. That does not, and it is an industry that
18 I need to share with my colleagues that does not accept the fundamental predicate of
19 the action we have before us. They do not accept the predicate that human activity
20 necessarily leads to greenhouse gas emissions. I would share with you in the packet
21 their letter in which they say, quote, science can neither explain the extent to which
22 human activities cause the accelerated temperature change versus other natural
23 phenomena nor can it predict the ultimate impact. Well, there are industries out there
24 that have that point of view. And if I was an industry that had that point of view and I
25 was facing difficult economic times, I would say, please don't do this to me. I don't
26 believe that should be this Council's response to this situation. It is, we have one of the
27 best local builders in the community, Mitchell and Best, who testified before the
28 Committee that they have committed, I quote, committed to Energy Star. And I had a
29 follow-up 45-minute conversation with Mr. Mitchell to make sure I heard him correctly
30 and that they stand behind that statement. They are committed to Energy Star. They
31 think it's the right thing to do. And you know what? They plan on making the same
32 amount of profit on that investment in Energy Star as any other aspect of the house.
33 These people are not going to put this forward as a loss leader. It is going to be a
34 component of a house that they are going to recover their profit on just like if it was a
35 screen porch or anything else. So we have the best builder in the County saying, we're
36 going to do this. We can do this. The home builder's online publication reported a
37 survey in which the vast majority of homebuyers said that they would be more than
38 willing to spend over \$10,000 on energy efficiency improvements in new homes if it led
39 to lower utility bills. That's their own online survey. It, in a marketplace in which
40 Montgomery County, let's make sure that we understand what this is, this is just new
41 residential homes, freestanding residential homes on average, new freestanding
42 residential homes in Montgomery County, the average price is \$1.1 million. Our average
43 price of all new residential homes is 800,000 because that includes less expensive
44 townhouses. Anybody who can qualify for a loan at these prices and have lower utility



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1 bills as a result, so it's a net positive cash flow, this is a good thing, not a bad thing. This
2 is something that people will do. This will not result in less home construction. This will
3 not result in less profit. It will result in a change in behavior that is hard. And it speaks
4 directly to Chair Floreen's observations with respect to the 96% of the population that
5 needs, that we need to get to in our actions on this Council. That is precisely what this
6 does. We, today, determine the energy efficiency of our residential buildings. We, today,
7 determine the energy efficiency of our commercial buildings. We have made giant
8 strides forward on the commercial sector. We have not made comparable strides at all
9 on the residential sector. Notwithstanding all of that, and after listening to the building
10 industry, and after listening to my colleagues, what you have before you is an amended
11 version of the Energy Star proposal that I had submitted to the Committee, an amended
12 version that tried to address the concerns my colleagues had with respect to this
13 particular timeframe that we are now in that is so difficult for homebuilders. So for that
14 very reason, the measure you have before you does not impose this requirement for
15 another year. A full year to ensure that we give them every opportunity, both to learn
16 what needs to be done, to ensure that the workers are there, the green jobs are there to
17 do it, but most importantly, to see if we can get past this economic slump that they are
18 currently in. And then finally, in response to the concerns of the Chair Floreen with
19 respect to, gosh, can we do this better? Is there a better mousetrap out there? Can we
20 find a different answer? And the administration's desire to look at this issue as opposed
21 to implement it, the measure that you have before you says, look, in January 15th, we
22 are going to get a report back from the sustainability working group. If that sustainability
23 working group and if the Director of the Department of Environmental Protection says to
24 us, we have found a better mousetrap that can achieve comparable savings at lower
25 costs, we suspend implementation of Energy Star and look at their alternative, and if we
26 agree that their alternative is a better alternative, we're done. So in effect, what we have
27 done is created a default case here of Energy Star, a year from today, the single most
28 important action we can take that I believe will not be adverse to the industry, that I
29 believe will be very favorably received by consumers, that I believe is the single most
30 important step we can take and that government needs to take. These are precisely the
31 kinds of trade-offs we are going to have to increasingly make, and if we are not willing to
32 do this now, I don't know when we will be willing to do it. I say to you I have tried very
33 hard to listen to my colleagues and to modify this to be sensitive to the needs of the
34 industry. But not have the industry dictate our policy on this crucial matter. So I do ask
35 for your support on this one. I think this is a very, very important measure.

36
37 Councilmember Elrich,
38 [inaudible].

39
40 Council President Knapp,
41 Hold on.

42
43 Councilmember Berliner,
44 This is, I am moving as an amendment. It is in the package.



April 22, 2008

1
2 Council President Knapp,
3 Moved and second. Councilmember Leventhal has a question.

4
5 Councilmember Leventhal,
6 I was actually preparing to second the amendment but Mr. Elrich jumped in having not
7 been recognized for that purpose but it's quite all right.

8
9 Councilmember Berliner,
10 He'll step back to allow you.

11
12 Councilmember Leventhal,
13 It's quite all right. It's quite all right. We do seek recognition here on the Council. Let me
14 just say this is a dilemma as with the, you know, we talked about a dilemma earlier this
15 morning, and I think that we have competing policy and economic goals here. I think Mr.
16 Berliner has gone good and thorough work on this. I do think it will take the home
17 building industry some elements of it, Mitchell and Best may be already fully up to
18 speed, I think other home builders in the County are not. So I think that the one-year
19 delay will be important. There will be a building industry representative on the
20 sustainability working group under the Bill that we just passed a few minutes ago, well,
21 some time ago now. So, if indeed the building industry overall believes that this is a
22 requirement it just can't meet, the second provision of this amendment would enable the
23 sustainability working group to study that and it could study it at the behest of one of its
24 members who would come from that industry. Having said that, the building industry is
25 facing a very serious economic downturn, and, you know, I have been a sophisticated
26 observer of Montgomery County politics for some time, and there are elected officials,
27 including some here at this dais, who take pride in criticizing developers, but developers
28 also employ roofers, dry wallers, people who put in, install flooring, a fundamental
29 measurement of a healthy economy, not just in Montgomery County, but anywhere, is
30 new home starts. We all hear it, and it's because investments in new homes have
31 multiplier effects that ripple throughout the economy. So, when the home building
32 industry is in a slump, pharmacies are in a slump, grocery stores are in a slump, gas
33 stations are in a slump, and you know, we are today embarked upon a discussion about
34 how to save the planet, but human beings are residents of the planet also, so these are
35 the balances that we have to strike. Are we going to accommodate human activity,
36 living, buying homes, building homes, driving, we may not like them, although everyone
37 but me drove a car here this morning, I drove a motorcycle, so, I mean, we engage in
38 these activities even as we say, you know, wring our hands about how bad they are. I
39 am changing my position on this issue. I voted against this in Committee. Again, I think
40 Mr. Berliner has done good and thorough work on this and he has marshaled some
41 strong arguments, and I have heard from other voices in the community. And it is true,
42 why don't we take advantage of energy efficiency? It is the most effective and the
43 cheapest way of reducing our carbon footprint. Some of us are lazy, and for many of us
44 energy is still relatively cheap. Energy is still relatively cheap for many of us. That does



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1 not negate the fact that people who are really hurting economically find their heat and
2 electricity bills hard to pay. But I got to tell you, I'm not wealthy and I don't find my
3 electricity bill very hard to pay. I voluntarily pay more for wind power and it isn't that hard
4 to pay. So the price of power is still relatively cheap. An upfront cost is harder to absorb
5 all at once, so people may not invest in energy efficiency improvements because, again,
6 they are lazy and because energy is relatively cheap. So it will take mandates, it will not
7 be done voluntarily. The voluntary approach to greenhouse gas emission is
8 characteristic of President Bush, and it isn't one that is working. We are not seeing a
9 reduction in greenhouse gases, so we're going to have to take steps like this. We have
10 piled on the home building industry on this County Council. We adopted dramatically
11 higher impact fees as Ms. Floreen stated. I had a conversation with Mr. Berliner last
12 night. I asked whether there were some ways that we could perhaps mitigate this. Could
13 we look at some, and I have been wrestling with this, could we look at some cutoff on
14 the price of a home? Mr. Berliner has talked about the average price of a new home is
15 \$1.1 million, yes, we all saw those statistics. That doesn't mean every home is that
16 expensive, and certainly, we would like to encourage a more, the construction of a more
17 affordable housing stock. This requirement will apply to townhouses. It will apply to
18 MPDUs. So are there some offsets that could be used to reduce the cost there? Is there
19 some way that we could take a look at impact fees and whether the increase in impact
20 fees, I agree with Mr. Berliner that the downturn in the real estate market is national and
21 is a function of forces larger than solely those that we implemented here at this County
22 Council, but the math is the math. And if you are weighing whether it's economical for
23 you to build a particular home, you're going to weigh all of these costs including building
24 code requirements, including this Energy Star requirement, including impact fees. So
25 we are going to have to monitor the health of this sector because the health of this
26 sector is related to the health of other sectors, and we may not like it, and our
27 constituents may not like it when they see a stand of trees being cut down and a house
28 being erected, and we hear the complaints about it. But we also are hearing the
29 complaints when people are facing layoffs or when people are facing, you know,
30 economic hard times, when restaurants aren't having business and when clothing stores
31 and retail establishments are closing because they are not getting the customers. So we
32 are seeing the ripple effects of the lack of growth and the construction industry is part of
33 our economy. So I hope we can have a conversation depending on how the economy
34 goes in the next year or so, and I hope we can look at some of the costs we have
35 imposed upon the home building industry. This is one more cost. This is probably the
36 best. I mean, I'm willing to grant all of these points about the need for energy efficiency
37 and the need to push industry and individuals in the right direction. I don't take this
38 position easily because I'm very concerned about the piling on that has occurred in the
39 construction industry. I think it is serious and I think the economic effects are serious.
40 Having said that, I think that increasingly consumers are going to be asking for this. I
41 think it is going to make the product more marketable, and so, and I think, again, I'm
42 repeating now for the third time, I think Mr. Berliner has done good and thorough work
43 on this and he's won my respect for his work on this.

44



April 22, 2008

1 Council President Knapp,
2 Councilmember Elrich.

3
4 Councilmember Elrich,
5 I appreciate the legislation that Roger has brought forward in this area. It is very difficult
6 to make alternative energy reforms having the kind of impact they need to have in
7 reducing the carbon footprint if we don't make changes in consumption of energy. And
8 Roger's Bill here, I think, addresses the other part of the energy conundrum that we find
9 ourselves in, which is actually reducing the demands on energy so that more
10 sustainable forms of energy don't simply feed the growing diet for consuming energy,
11 but actually allow, those forms are allowed to supplant existing forms of nonrenewable
12 energy. So I think this is the kind of legislation that moves us in the right direction. I will
13 say, as far as impact fees go, this is not money that the government imposed. It's not a
14 tax that the government imposes on builders for the joy of government to simply
15 accumulate money in the treasury to spend however we wish. The point of the impact
16 fees is to build the roads and the schools and the rest of the infrastructure which will not
17 get built unless we collect those fees or unless the Council is willing to shift the burden
18 of those fees onto the homeowners in general of Montgomery County. This is not a, just
19 a burden imposed on one party. If the burden is not imposed there, it's going to be
20 imposed on everybody else. This is not just some way of supplementing or enhancing
21 the County's revenue stream. The impact fees have a purpose and that's a totally
22 different issue than what we're trying to discuss here with the energy Bills.

23
24 Council President Knapp,
25 Councilmember Floreen.

26
27 Councilmember Floreen,
28 Thank you. I had a question about the Bill. Councilmember Berliner has said that his
29 proposal is to delay this for a year. The Bill that was introduced applied to building
30 permits filed on or after January 1, 2009, so are you changing that to 2010?

31
32 Councilmember Berliner,
33 That's correct.

34
35 Councilmember Floreen,
36 Okay. Is there a.

37
38 Councilmember Berliner,
39 And if we did not make that conforming change, then I think we need to, unless staff
40 advises me otherwise.

41
42 Amanda Mihill,
43 No, we can make that change. What was in the amendment in the packet is April 22nd,
44 2009.



April 22, 2008

1
2 Council President Knapp,
3 Okay.

4
5 Councilmember Berliner,
6 So.

7
8 Amanda Mihill,
9 So, if we need to make it.

10
11 Councilmember Floreen,
12 You're changing it to.

13
14 Amanda Mihill,
15 January 2010.

16
17 Councilmember Berliner,
18 You need to make it consistent with the delay in the.

19
20 Amanda Mihill,
21 Okay.

22
23 Councilmember Floreen,
24 And, so then, what is the proposal with respect to implementing regulations? And I just
25 wanted to understand how it worked in with the other direction to the sustainability
26 working group because we asked them to evaluate the costs and benefits of some of
27 the other rules because the Committee, of course, supports the initiative, it's just
28 understanding what is the best route, and it had had language in there with respect to
29 looking at some other building code standards, if you look on page 13, circle 13.

30
31 Councilmember Berliner,
32 Yes, and.

33
34 Councilmember Floreen,
35 Are you retaining that?

36
37 Councilmember Berliner,
38 Yes, Madam Chair. In part because, if you will recall, the other part of my amendment
39 does explicitly say to the Executive Branch that if you come up with a better mousetrap
40 that produces comparable results at less costs, we would suspend implementation of
41 Energy Star in order to consider that. By definition, we do not want to strip away from
42 the sustainability working group looking at this set of issues. We are in effect creating
43 again a default mode, that if they do not come up with something better, this is what
44 would go into effect.



April 22, 2008

1
2 Councilmember Floreen,
3 And that would go into effect as of January 2010? The current proposal?

4
5 Councilmember Berliner,
6 Say that again.

7
8 Councilmember Floreen,
9 The proposal for the green energy, the Energy Star, submission to go through the
10 Energy Star process, which is, you know, a set of standards out there somewhere, I
11 guess, for, that buildings need to be certified by, that would remain the requirement as
12 of 2010 unless something else comes along?

13
14 Councilmember Berliner,
15 No, and perhaps I.

16
17 Councilmember Floreen,
18 I'm just trying to understand, that's all.

19
20 Councilmember Berliner,
21 No, I appreciate your question.

22
23 Councilmember Floreen,
24 I'm not picking nits.

25
26 Councilmember Berliner,
27 It perhaps illuminated a misunderstanding on my part. My goal was to give the builders
28 a full year to get acclimated to this so that if we don't get a recommendation from the
29 Department that says go beyond this, that we would be in a position to implement it as
30 of a year from now so that it would be, unless the, so you have a full year to get used to
31 here is what's coming down the road unless they come up with a better mousetrap, and
32 at that point in time, if we get to January, that's our implementation, excuse me, April
33 2009, is our implementation date.

34
35 Councilmember Floreen,
36 I'm sorry, but that's what was my first question.

37
38 Councilmember Berliner,
39 I understood.

40
41 Councilmember Floreen,
42 Because I thought you'd said that you were proposing to delay, what you had
43 introduced was January 1st, 2009. That's what was in the Bill.



April 22, 2008

1 Councilmember Berliner,
2 Okay.

3
4 Councilmember Floreen,
5 That required a covered building to adhere to the Energy Star requirements, January
6 1st, 2009.

7
8 Councilmember Berliner,
9 And this moves it back till April 22nd, I believe is the date.

10
11 Councilmember Floreen,
12 So, then, it's not a year delay.

13
14 Councilmember Berliner,
15 It is a year from today, action today. That's right.

16
17 Councilmember Floreen,
18 But it's not giving anybody.

19
20 Councilmember Leventhal,
21 Three months.

22
23 Councilmember Floreen,
24 Yeah, that's only three months.

25
26 Councilmember Leventhal,
27 You're delaying the effective date from your Bill.

28
29 Councilmember Berliner,
30 All right, well, I need to.

31
32 Councilmember Leventhal,
33 You introduced a Bill that said January 1, 2009, and now you're going into April 22nd,
34 2009. That's not a year delay.

35
36 Councilmember Berliner,
37 Okay. I will accept that you have identified a flaw in my thinking. So I will, if
38 Councilmember Leventhal, if it is your desire with respect to that I thought I was giving a
39 year for folks to get ready for this. If you believe that your support with respect to this
40 was contingent upon it going into effect January 2010, I will stay by that deal.

41
42 Councilmember Leventhal,
43 I had understood from your memo that you were taking the Bill that you had introduced
44 and delaying its effective date by a year.



April 22, 2008

1
2 Councilmember Berliner,
3 That's a fair observation, and I will honor that commitment.

4
5 Councilmember Floreen,
6 Okay, so then, I'm just trying to get it.

7
8 Council President Knapp,
9 Fair enough.

10
11 Councilmember Floreen,
12 So then, that language would, that would be the requirement effective for building
13 permits filed on or after January 1st, 2010, unless, in the meantime, the County, the
14 sustainability working group comes up with a better mousetrap.

15
16 Councilmember Berliner,
17 That's correct.

18
19 Councilmember Floreen,
20 Is that?

21
22 Councilmember Berliner,
23 That's correct.

24
25 Councilmember Floreen,
26 And, so we would still direct them to look at these other.

27
28 Councilmember Berliner,
29 That is correct. We have directed them to do so.

30
31 Councilmember Floreen,
32 And what would, I'm sorry to.

33
34 Councilmember Berliner,
35 No, no.

36
37 Councilmember Floreen,
38 I just, again, hadn't looked at this in that light. When would you anticipate implementing
39 regulations, then, from the Department to, because there have to be, people who have
40 to file building permits have to have rules in place prior to then so they know what they
41 need to submit exactly. Do you have a date for implementing regulations?

42
43 Councilmember Berliner,
44 I don't. If the staff could help me here.



April 22, 2008

1
2 Amanda Mihill,
3 The amendment had specified that by January 15th of 2009, the Executive had to
4 submit regulations to implement the Energy Star.
5

6 Michael Faden,
7 Essentially three months before the actual provision took effect, so if you're following
8 that template, you would require.
9

10 Councilmember Floreen,
11 Changing.
12

13 Council President Knapp,
14 September.
15

16 Michael Faden,
17 Right.
18

19 Councilmember Floreen,
20 September 2009.
21

22 Michael Faden,
23 October 1st.
24

25 Councilmember Floreen,
26 Whenever. October 1st.
27

28 Councilmember Berliner,
29 I would appreciate if staff would, if we would make that, of course.
30

31 Michael Faden,
32 October 1st.
33

34 Councilmember Berliner,
35 Yes.
36

37 Michael Faden,
38 Right. And then the same thing with the suspension of it, if they have the so-called
39 better mousetrap, keep the same relationship.
40

41 Councilmember Berliner,
42 Yes.
43

44 Michael Faden,



April 22, 2008

1 Okay.

2
3 Councilmember Floreen,
4 Okay. Thank you.

5
6 Council President Knapp,
7 I have just a couple clarifying questions as well. In the course of, and I commend Mr.
8 Berliner because I think you have listened and I think your statement was compelling. In
9 your statement, you have made a mention of this impacted single family stand-alone
10 homes. And that's how I heard that. But.

11
12 Councilmember Berliner,
13 It doesn't just impact them.

14
15 Council President Knapp,
16 Okay. So.

17
18 Councilmember Berliner,
19 All residential construction.

20
21 Council President Knapp,
22 Okay.

23
24 Councilmember Berliner,
25 New residential construction.

26
27 Council President Knapp,
28 Yeah, I see people going like this, what's that mean.

29
30 Councilmember Berliner,
31 I apologize.

32
33 Council President Knapp,
34 Somebody give me a language to go with the hand.

35
36 Amanda Mihill,
37 Energy Star only applies to new construction four stories and below.

38
39 Council President Knapp,
40 Four stories and below. Okay. Okay.

41
42 Councilmember Berliner,
43 Which is, Mr. Council President, we adopted LEED for other buildings.



April 22, 2008

1 Council President Knapp,
2 Right.

3
4 Councilmember Berliner,
5 And so this fills the gap.

6
7 Council President Knapp,
8 Right.

9
10 Councilmember Berliner,
11 With respect to that.

12
13 Council President Knapp,
14 Up to that point.

15
16 Councilmember Berliner,
17 That's correct.

18
19 Council President Knapp,
20 Then lead takes over from there. There is a, as I understand it, and I'm still learning this,
21 too, so there is a rating requirement for Energy Star, so someone actually has to do the
22 rating before it's submitted to permitting?

23
24 Councilmember Berliner,
25 Just as lead does.

26
27 Council President Knapp,
28 Right.

29
30 Councilmember Berliner,
31 Council President, that you have to demonstrate that you have adopted the HVAC,
32 you've done, and you have both, you have an option as to a, quote, prescriptive path,
33 that is, you can pick particular items and if you do that, you're done, or you can do a,
34 quote, performance path, so yes, you have to have somebody that goes out there and
35 says, yep, this works.

36
37 Council President Knapp,
38 And are there people out there that can do that? I mean, is there a sufficient number of
39 people to.

40
41 Councilmember Berliner,
42 Well, it is one of the reasons why we delayed implementation in order to ensure that we
43 are in fact creating green jobs. There has been some concern, Mitchell and Best
44 obviously feels like there are enough for them. But if we move this.



April 22, 2008

1
2 Council President Knapp,
3 All of a sudden.

4
5 Councilmember Berliner,
6 Understood, but that's why we, it's another reason why we have delayed
7 implementation to allow the industry to create green jobs in this area.

8
9 Council President Knapp,
10 Sure, I just, is that a part of any assessment that takes place that would be looking back
11 from DEP to actually make sure that there?

12
13 Councilmember Berliner,
14 Council President, if you would like to offer a friendly amendment that said that if the
15 DEP were to make a finding that there are insufficient raters available to perform this
16 service, I'm willing to consider that as well.

17
18 Council President Knapp,
19 Okay. I'm just asking the question at this point. Just making sure of the notes.

20
21 Councilmember Leventhal,
22 Well, I think that amendment would have value. I mean, that's something I've heard
23 from the industry.

24
25 Council President Knapp,
26 No, I think.

27
28 Councilmember Leventhal,
29 That they are concerned that they won't be able to comply because they won't be able
30 to get the third-party verifications so.

31
32 Council President Knapp,
33 Can DEP actually ascertain that information?

34
35 Councilmember Berliner,
36 We could ask DPS in that regard or the sustainability working group presumably is
37 doing that kind of coordination between DPS which is more familiar with that than DEP.
38 But I think we could ask, again, if the recommendation, yes.

39
40 Council President Knapp,
41 Okay. I'd be will, okay, I will make that motion.

42
43 Councilmember Leventhal,
44 Second.



April 22, 2008

1
2 Council President Knapp,
3 Okay.

4
5 Councilmember Floreen,
6 Mr., can I, I'd just like to comment on, if you will recall, in the previous Council.

7
8 Council President Knapp,
9 I'm sorry.

10
11 Councilmember Floreen,
12 In the previous Council, when we adopted the LEED standards.

13
14 Council President Knapp,
15 Right.

16
17 Councilmember Floreen,
18 We were advised, and I'm not sure this would apply here, there were anti-trust issues
19 associated with using LEED as the sole.

20
21 Councilmember Berliner,
22 And it doesn't apply here.

23
24 Councilmember Floreen,
25 Sole measure, so in any event what we did was consistently through the LEED
26 requirements direct that.

27
28 Council President Knapp,
29 Were you asking a question.

30
31 Councilmember Floreen,
32 No, well, because you raised the question. The issue was ensuring the availability of
33 alternative solutions to achieve the same end. That's how we wrote the LEED standards
34 for the larger multifamily buildings and commercial buildings so that there would be
35 sufficient flexibility to achieve the end, hopefully through the LEED standards, but not
36 necessarily in every case, if it could be, if the Department had in place a mechanism to
37 provide, and I think, I'm not sure if we have gotten the regulations yet. But that would
38 achieve some, allow the industry to find less costly processes, perhaps, to achieve the
39 same end, which is energy, in that case, not only energy efficiency, but green building
40 construction. That, I don't know the extent to which that opportunity is available in the
41 Energy Star approach. We did not get into that in great detail, in as much detail in the
42 Committee as we did on the LEED conversation at the, in the last Council. So I'd just
43 note that there are a few, quite a few details in terms of regulatory understanding to be
44 worked out here that we have not looked at.



April 22, 2008

1
2 Council President Knapp,
3 I appreciate the sponsors' acquiescence to that amendment. I think that works.

4
5 Councilmember Berliner,
6 Good.

7
8 Councilmember Floreen,
9 How would that read?

10
11 Council President Knapp,
12 Which?

13
14 Councilmember Floreen,
15 This last one.

16
17 Council President Knapp,
18 That as a part of DEP's analysis, there will be an assessment as to whether or not there
19 is enough capacity to actually provide the resources.

20
21 Councilmember Berliner,
22 By the time that.

23
24 Council President Knapp,
25 Right, by the time.

26
27 Councilmember Berliner,
28 By the time that they're.

29
30 Council President Knapp,
31 To provide the rating capabilities by the time.

32
33 Councilmember Leventhal,
34 And specifically, whether adequate testers are available in the private market.

35
36 Council President Knapp,
37 Right. Exactly.

38
39 Councilmember Floreen,
40 But, you might want to give them the language.

41
42 Council President Knapp,
43 Yes.



April 22, 2008

1 Councilmember Berliner,
2 I think that.

3
4 Councilmember Leventhal,
5 Amanda's taking notes.

6
7 Council President Knapp,
8 She's been doing this a while. And I think, I mean, I think those were my issues. The
9 only comment I want to make, and I think that Mr. Leventhal hit a lot of these points
10 pretty clearly, I'm not so sure it's about profitability. I think I can, I'm still concerned
11 about the notion of affordability, and I think that in a vacuum, this is great if it's the only
12 thing we have done. But over the last six years, we, you know, having been a part of the
13 Council that raised the first set of impact taxes, which at that point were the highest in
14 the state and we continued to add to those, not that they are not for a good purpose, not
15 that all of these things aren't for a good purpose, but all of them add to the difficulty in
16 making our community affordable. As I think, and I agree with Mr. Leventhal, that of all
17 of those things, I think this is the easiest to get to, so I think that makes a lot of sense. I
18 just, I appreciate the remarks as it relates to the building industry. I would argue that this
19 is not so much about the building industry as it is providing our community and our
20 residents a place to live, and I think we need to continue to be mindful of that and when
21 we continue to focus on the industry, we lose that context. It's easy to kind of go after
22 the industry, and we are all trying to figure out how we do affordability and make our
23 community a place that everyone can live in. And so, I think we do need to be mindful of
24 it, but I agree, I think that this will, I think the market will move in this direction. I think
25 this is a good idea for us to get there, and I think given the timeframe that we have now
26 put in with the amendments and some of the caveats, I think it does make sense and I'll
27 be supportive of the amendment. But I just think it's important as we continue to have
28 our rhetorical discussion that we need to recognize that as we keep making changes
29 and adding bits and pieces, it does continue to make homes in our community less
30 affordable and therefore, more difficult for people to be able to purchase. And it's just,
31 we just need to be mindful of that and I don't know if the Committee actually looked at
32 the total, we've asked this a couple different times, the total number of increases we
33 have actually added to the cost of a new house over the course of the last four or five
34 years, and I think it came up in the growth policy, but I haven't actually seen anyone
35 provide an assessment of that. Did the Committee look at that at all?

36
37 Amanda Mihill,
38 No.

39
40 Council President Knapp,
41 Has staff? Okay. I think we need to come back to that at some point over the course of
42 this summer, just so we have some understanding of what we've done with that. Okay.
43 Councilmember Floreen.



April 22, 2008

1 Councilmember Floreen,

2 Again, I do apologize, but looking back at the existing, what the Committee sent
3 forward, we had directed the sustainability working group on circle 5 to evaluate
4 incentives for these initiatives. I don't know if that language needs to be amended.
5 Obviously, we don't need 59 through 62, which is options to encourage builders to
6 achieve Energy Star ratings insofar as the language is apparently being amended to
7 eliminate that. But I do think, based on those conversations, we would want the
8 sustainability working group to evaluate options for minimizing the costs on affordable
9 housing in achieving those objectives. So I would propose that we insert that in place of
10 line 59 in the proposed Bill.

11
12 Councilmember Berliner,

13 I'm sorry, Chair Floreen, could you point me to.

14
15 Councilmember Floreen,

16 Circle 5, I'm not sure which version of the Bill we're looking at, but I think that's the area.
17 On line 59, that's where the Committee had recommended that the sustainability
18 working group evaluate options to encourage the achievement of the Energy Star rating
19 since, apparently it's the intent of the Council to move forward, I would say that, what we
20 wouldn't want the sustainability working group to evaluate is options to minimize or to
21 minimize the cost to affordable housing. Let's see, I'm just thinking off the top of my
22 head, options to minimize costs for affordable housing initiatives.

23
24 Michael Faden,

25 Impact on affordable housing.

26
27 Councilmember Floreen,

28 Yeah. That sort of thing in this category instead.

29
30 Councilmember Berliner,

31 I would be amenable to that.

32
33 Michael Faden,

34 Okay. To replace number two with.

35
36 Councilmember Floreen,

37 Yeah.

38
39 Michael Faden,

40 Okay.

41
42 Councilmember Leventhal,

43 Okay. I just want to comment on that. I mean, it causes me concern that we may be
44 increasing the price of MPDUs. On the other hand, I can't, as I wrestled with this and



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1 Mr. Berliner, you know, kept sending us memos and, you know, I take this stuff
2 seriously, I was thinking about it, I can't see voting, raising my hand and voting to have
3 housing for lower income people be less energy efficient either. I mean, that, you know,
4 we don't want to increase costs, but neither do we want to bless the building of
5 inefficient housing stock because in the long run that drives up costs. So these are,
6 there's, for every action, there's an equal and opposite reaction.

7
8 Council President Knapp,
9 So do we, we had a motion to provide this, and read the language again.

10
11 Councilmember Floreen,
12 Mr. Faden had made up some language there. My intention was to ask the group to
13 come up with some proposals to minimize the energy efficiency burdens on affordable
14 housing.

15
16 Councilmember Leventhal,
17 My hope, could I speak to that? I mean, my hope would be that we could, and my hope
18 had been all along, but we never got to it last fall, and I don't think the appetite was
19 there on this Council, was that we would have a fresh look at impact fees as it affected
20 housing for low income people or MPDUs, and instead the Council adopted a
21 recordation tax proposal that was sort of a circuitous way of getting at that. But, you
22 know, that would be the conversation I would be most interested in, whether the Council
23 has sympathy for that or not, I don't know.

24
25 Councilmember Floreen,
26 I certainly would support that, but in this environment.

27
28 Councilmember Leventhal,
29 But we are not going to accomplish it.

30
31 Councilmember Floreen,
32 We are just asking this group to look at this issue. And there are grants, there are
33 various other things, but there's no.

34
35 Council President Knapp,
36 So, we are looking, we are actually looking for just the sustainability group to give
37 recommendations back in the course of the study.

38
39 Councilmember Floreen,
40 Yeah. Yeah.

41
42 Councilmember Leventhal,
43 I guess, I'm sorry, if I could, I appreciate where Ms. Floreen is going. I guess it gets
44 back to the point I made earlier, which is, what does this have to do with carbon



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1 reduction? Let's keep the sustainability working group focused on carbon reduction. And
2 given the expressed interest of Mr. Berliner in response to my query yesterday, if we
3 could look at the effect of, you know, what's going on with our housing market and
4 what's going on with affordable housing and how are all of these things connecting, and
5 did the impact fees that we passed further the slide of the housing industry, then that's a
6 conversation I would like us to get into this year as we monitor the health of our
7 economy.

8
9 Council President Knapp,
10 Yeah.

11
12 Councilmember Leventhal,
13 I'm concerned that, I don't see this charge to the sustainability working group being
14 housing affordability. So I'm sympathetic to what Ms. Floreen is trying to accomplish, but
15 I'm afraid it's one more cul-de-sac that the sustainability working group might go to.

16
17 Councilmember Floreen,
18 But if you look to the provision of the language above it, it's options for creating
19 incentives for doing this, you know. It's all in the same category, and MFP will get into
20 that in a second.

21
22 Councilmember Trachtenberg,
23 Or this afternoon. Later this afternoon.

24
25 Council President Knapp,
26 So, we have before us a motion as to whether or not to add language as it relates to,
27 the impact on affordab, or recommendations on, the sustainability work group will come
28 back with recommendations as it relates to the impact on affordable housing.

29
30 Amanda Mihill,
31 Options to minimize the impact on affordable housing.

32
33 Council President Knapp,
34 To this amendment.

35
36 Councilmember Leventhal,
37 I don't understand how that's actually going to work. Again, I appreciate the point. I've
38 raised the point myself. But we're giving a charge to the sustainability working group.

39
40 Council President Knapp,
41 Let's do this.

42
43 Councilmember Leventhal,



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1 The charge to the sustainability working group is to promote energy efficiency, energy
2 conservation, and carbon reduction.

3
4 Council President Knapp,

5 Let me propose this. I agree. I think there are a number of issues that we are going to
6 have to look at as we proceed through the summer as it relates to affordability which
7 may relate to, I know some have proposed a stimulus package, I know some have
8 talked about just looking at what we have got on the table in front of us as it relates to
9 our current charges, the PHED Committee will bring this up as a discussion this
10 summer to explore further. I'm not sure that you're going to get, I don't want to get these
11 folks tied up in knots, either. We actually want them to look at sustainability and have
12 them do that, but I think it's important for us to ask the economic question and we're
13 going to spend a lot of time in the PHED Committee this summer looking at economic
14 issues, and so I think it's important to make sure this gets rolled in there. I would
15 propose that.

16
17 Councilmember Ervin,

18 I have a comment on this. I sit here a lot quietly listening to the debate, and I think it's
19 very important that in the environmental justice community, this is a very important tenet
20 of environmental justice because people who are brown and black and poor are often
21 the ones who are left out of this conversation. So if we don't do what Ms. Floreen is
22 advocating, we will be leaving out thousands of people who actually will be impacted by
23 the decisions that this Council is going to make on environmental sustainability without
24 having the conversation about affordability. I think it goes together. I don't think you can
25 do one without doing the other one.

26
27 Council President Knapp,

28 All right. Well, then, we have a couple here, so we've got a, effectively, we have got a
29 second degree amendment to modify the language on, where are we?

30
31 Amanda Mihill,
32 Circle 5.

33
34 Councilmember Floreen,
35 Circle 5. You have language that you don't need anyway.

36
37 Council President Knapp,

38 Right. Right. So, number 2 at 59, line 59 would need to come out because we have
39 effectively replaced that with Councilmember Berliner's amendment.

40
41 Amanda Mihill,
42 Yes.

43
44 Council President Knapp,



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1 So we are replacing number 2 with language that says.

2
3 Amanda Mihill,

4 The sustainability working group must evaluate options to minimize the impact on
5 affordable housing.

6
7 Council President Knapp,

8 Okay. So, we have that before us as a second degree amendment, which I would ask,
9 any further conversation, any further discussion on that?

10
11 Councilmember Berliner,

12 I would just observe, Council President, that in the discussion we had at T&E with
13 respect to this matter, the universe of, quote, affordable houses that are being built
14 today, of new affordable houses that are either freestanding or townhouses is very, very
15 small. And so.

16
17 Councilmember Ervin,

18 That's interesting in light of the debate I just was listening to earlier today about,
19 anyway, here's my point about that though.

20
21 Council President Knapp,

22 Hold on. Roger has got the floor.

23
24 Councilmember Ervin,

25 Okay.

26
27 Council President Knapp,

28 Let Roger, and then George has a question after that.

29
30 Councilmember Berliner,

31 We had discussion from HOC with respect to this, and heard testimony that there's just
32 a handful of units would be affected by this, if that many. So it isn't to say that we don't
33 have an affordability crisis in our County. We do. But in terms of new construction of
34 residential homes, the number of new construction that fall within the affordable
35 category is quite small, to the best of my knowledge. And was the testimony before our
36 Committee. And I do not oppose the amendment. I tend to share both the Council
37 President and Mr. Leventhal's views that this is an odd place to do this. But I am
38 prepared to accommodate the desires of my colleagues with respect to this.

39
40 Council President Knapp,

41 All right. Councilmember Leventhal, then Councilmember Ervin, and then
42 Councilmember Floreen.

43
44 Councilmember Leventhal,



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1 Okay, this amendment is not going to pass by consent, I'm not going to vote for it.

2
3 Council President Knapp,
4 Right.

5
6 Councilmember Leventhal,

7 I would like, I like a lot of what I have heard, who knows whether we will get anywhere,
8 who knows whether the appetite of this Council will actually be, you know, to do any of
9 these things. I don't know. The impact taxes have a much greater effect, in my
10 judgment, on the cost of housing, the cost of MPDUs, the cost of affordable housing,
11 than the requirement that windows be caulked and insulation be added and that building
12 materials be, you know, not be permeable to cold and heat and the kinds of things that
13 would make a house Energy Star efficient. And homes ought to be Energy Star rated.
14 It's something we want to encourage. So, I don't, I can't imagine what the sustainability
15 working group would say about making an Energy Star requirement more affordable
16 other than that you make short cuts in making the home energy efficient, and that's not
17 the purpose of the sustainability working group. I would hope that the Council, I don't
18 know, there seem to have been some sympathy expressed from some, perhaps pivotal,
19 Councilmembers here could take a real look, as Ms. Floreen suggested, at look at all
20 the costs we have piled on each new unit and what effect are all of those costs, impact
21 fees combined with this having on the ability to construct new affordable units? Because
22 even if Mr. Berliner is correct that precious few affordable units are being constructed,
23 we would hope that more would be constructed in the future, and have we erected a
24 cost structure, through all of our actions, that have prevented that from coming about.
25 That's a conversation I'm eager to have, I was eager to have it last fall. A deer got in my
26 way and I wasn't able to really participate as thoroughly in that conversation as I hoped I
27 would last fall. I don't think it's the sustainability working group's job to assist us in
28 promoting our affordable housing goals. I think that's the County Council's job. It's
29 DHCA's job. We have an affordable housing taskforce that has just given us a report.
30 Let's not confuse the work of the sustainability working group. With my friend Valerie's
31 point about environmental justice, it is my strong hope, I had some concerns when I
32 looked at the categories of people that were being put on the sustainability working
33 group because it sounded to me, and you've all heard me talk about this so many times,
34 like the usual suspects, you've got to have a quote, unquote, civic leader, you've got to
35 have a quote, unquote, developer. But of the 11 members of the sustainability working
36 group, I would hope that the County Executive would not feel overly constrained and
37 that we would have some diversity on that working group, that we would have aspects
38 of the community who represent lower income people, who represent, historically,
39 disenfranchised communities are going to be part of that sustainability working group
40 and at least let the legislative history reflect here that the Council strongly urges that
41 there be diversity on that working group so that overall the effect of environmental
42 initiatives on all elements of the community are borne in mind. I don't think this one
43 Energy Star requirement is the place on which that whole movement towards
44 environmental justice is going to hinge.



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1
2 Council President Knapp,
3 Councilmember Ervin.

4
5 Councilmember Ervin,
6 I would agree with that, Councilmember Leventhal. My point here is that the
7 environmental sustainability working group needs to get their head around how they are
8 going to move this sort of policy discussion into the future. I don't necessarily agree with
9 Councilmember Berliner that we are only going to build a few new affordable housing
10 units in the future. I would hope the opposite is true. I believe that we are leaving out a
11 very large chunk of our constituents in the County if we don't engage with them in how
12 to promote sustainability in the multifamily buildings that many thousands of them live
13 in, and we are not engaging in that conversation. And I think this working group is the
14 perfect place to have this conversation on this issue.

15
16 Councilmember Berliner,
17 If I could.

18
19 Council President Knapp,
20 Councilmember Floreen.

21
22 Councilmember Berliner,
23 I'm sorry.

24
25 Council President Knapp,
26 Councilmember Floreen.

27
28 Councilmember Floreen,
29 Well, we're told that just the cost of certification that this would require is 2 to \$3,000.
30 They think it could be 2 to \$3,000, and the fundamental cost of adhering to these
31 objectives, you know, give or take a couple thousand dollars is between 5 and \$20,000
32 per home. Someone is going to have to pay for that. And I know Habitat for Humanity
33 can't afford it, and I don't know about DHCA. I do not know about the MPDU unit owners
34 or developers or what that cost is going to be for anything than HOC might contemplate.
35 Everyone agrees it adds 10 to 15% to the production of these units. Well, there's a
36 reason why no one, these units don't get produced, folks. Can't do it. And I just think
37 that, I agree with Mr. Leventhal. I wish we could have had that conversation and have
38 had it resolved in the fall. We had it. It didn't get anywhere.

39
40 Council President Knapp,
41 Okay.

42
43 Councilmember Floreen,



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1 If you don't include this in what we do, you don't make it a priority for when we actually
2 get to looking at the full package. And I frankly think that all that we do having to do with
3 home construction needs to include affordability as part of the conversation. This group
4 is only looking at suggestions. It's certainly up to us to agree to pursue them. But, if they
5 don't look at it, the experts don't look at initiatives, and there are a lot of whether energy
6 sufficiency issues, groups out there that are looking into this. The issue of affordability
7 remains a driving force, and we need to get the best experts in the energy field to
8 advise us in how best you get these units produced and satisfy the environmental goals
9 at the same time.

10
11 Council President Knapp,
12 Councilmember Berliner, then Councilmember Leventhal, and then we are going to
13 vote.

14
15 Councilmember Berliner,
16 I just want to make sure that my colleagues appreciate that, to the extent to which our
17 package before us today has a gap, it is in the retrofitting of existing buildings, and
18 particularly the multifamily sector. We have not figured out a way in which to address
19 that set of issues in a way that is particularly satisfying. It is why at the top of page,
20 circle 5, at the top of circle 5, you see lines 53 through 58 that focus exclusively on
21 options for creating incentives for the owners of multifamily residential buildings, to
22 modify their buildings to increase their energy efficiency. That is precisely why we have
23 tasked the Executive Branch with this responsibility to come back to us with a report
24 that would give us a handle on how we can proceed here because, while we are
25 focusing right now on the 3,000 or so new homes built every year, if we don't get to the
26 existing building stock, if we don't get to the renters, we are not going to do the things
27 that we need to do. But it's this piece of the legislation that I would say to you has the
28 most significance in addressing precisely those kinds of economic justice sets of
29 dynamics that we must get to, absolutely must get to, and I share your commitment to
30 them. It is why we put that in precisely to address those constituents.

31
32 Council President Knapp,
33 Okay. Councilmember Leventhal, and then we vote.

34
35 Councilmember Leventhal,
36 Well, we are slinging some statistics here, and the statistics disagree. So I don't agree,
37 based on anything I have heard or read, and I sat through the Committee's discussion
38 on this and paid a lot of attention to it, that as my colleague just said, an Energy Star
39 rating is going to add 10 to 15% of the price of a home. There isn't anything we have
40 heard that backs that up. So that's.

41
42 Councilmember Floreen,
43 [inaudible].
44



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1 Councilmember Leventhal,

2 It isn't. I mean, presumably a smaller home is going to cost you less to make energy
3 efficient, so the high end estimate, even if it were \$20,000, \$20,000 is not 10 to 20% of
4 any new home being built in Montgomery County anywhere. There aren't any \$200,000
5 homes being built in Montgomery County, even MPDUs aren't \$200,000 homes, even
6 townhouses aren't \$200,000 homes. So that, I mean, we're slinging statistics around
7 that sound scary but let's be clear, at least for the benefit of our friends who may be
8 writing about this in the newspaper, I don't think that statistic is correct. And on the issue
9 of retrofitting multifamily homes that are occupied by lower income people, that's not
10 going to come at no cost. So if we are going to look at this, you know, at least
11 somewhere here let's look not at mandating costs but let's look at alleviating costs. So,
12 as we get to that, that's where we should be looking at incentives, grants, write-offs of
13 taxes, write-offs of impact taxes, something to incentivize that. Let's not do that through,
14 if we get there, let's not do that through a mandate approach, which I know Mr. Berliner
15 is not proposing.

16
17 Councilmember Berliner,
18 Right. But.

19
20 Councilmember Leventhal,
21 But, it is going to cost money.

22
23 Councilmember Berliner,
24 Not creating incentives.

25
26 Councilmember Leventhal,
27 Right. Right.

28
29 Councilmember Berliner,
30 That's exactly what the language.

31
32 Councilmember Leventhal,
33 Right. And again, in the long run, it's going to save money. I mean, I don't think, if the
34 effect of, the charge of the sustainability working group would be to exempt stock of
35 housing that is occupied by lower income people, those lower income people have the
36 hardest time paying their energy bills. So, anyway, I'm sorry, with regret because I
37 appreciate the sentiment behind it, I am again not voting for the amendment.

38
39 Council President Knapp,
40 All right. We have before us. You have got one minute. Let's go.

41
42 Councilmember Elrich,
43 George is right.



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1 Council President Knapp,
2 Go ahead. No, you got to turn your microphone on.

3
4 Councilmember Elrich,
5 The letter from the building industry cites 10 to \$20,000 of additional costs. \$20,000 on
6 a million dollars home is 2%, not anywhere close to 10 or 15%. And just as a point of
7 information, the Housing Department actually has a program where they are making
8 loans to landlords and to do those very things, put in windows, replace heating and
9 cooling systems, and providing them subsidizes loans so that they can maintain
10 affordability of those units right now. So some of these programs actually already exist
11 in the County's inventory.

12
13 Council President Knapp,
14 All right. Thank you. We now have before us an amendment to modify section 2 under
15 814C at line 59 to have a requirement for the sustainability taskforce to, read the
16 language again so we are clear.

17
18 Amanda Mihill,
19 Options to minimize the impact on affordable housing of achieving the Energy Star.

20
21 Council President Knapp,
22 Okay. All in support of the amendment indicate by raising your hand. That is
23 Councilmember Floreen, Councilmember Ervin, Councilmember Berliner,
24 Councilmember Andrews, and myself. All opposed? Councilmember Elrich and
25 Councilmember Leventhal. The amendment carries. Councilmember Floreen.

26
27 Councilmember Floreen,
28 I just direct the Council's attention, we have had a memo from HOC on March 14th with
29 respect to the cost of meeting green building energy efficiency requirements that it
30 increases the cost of construction by 10 to 15%. It was in the T&E Committee packet.
31 Thank you.

32
33 Council President Knapp,
34 Okay. I see no further discussion on the amendment to Bill 30-07 as amended. All in
35 support of the amendment as proposed by Councilmember Berliner and amended,
36 indicate by raising your hand. That is unanimous. Madam Clerk, if you would call the roll
37 on Bill 30-07, Buildings - Energy Efficiency.

38
39 Council Clerk,
40 Mr. Elrich.

41
42 Councilmember Elrich,
43 Yes.



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1 Council Clerk,
2 Ms. Floreen.
3
4 Councilmember Floreen,
5 Okay, not enthusiastic.
6
7 Council Clerk,
8 Mr. Leventhal.
9
10 Councilmember Leventhal,
11 Yes.
12
13 Council Clerk,
14 Ms. Ervin.
15
16 Councilmember Ervin,
17 Yes.
18
19 Council Clerk,
20 Mr. Berliner.
21
22 Councilmember Berliner,
23 Yes.
24
25 Council Clerk,
26 Mr. Andrews.
27
28 Councilmember Andrews,
29 Yes.
30
31 Council Clerk,
32 Mr. Knapp.
33
34 Council President Knapp,
35 Yes. Motion carries. I just want to note that Councilmember Trachtenberg had to go to
36 another Council function. And what we will do now, so we will get her vote when she
37 returns, but we will turn to the remaining three items, 33-07, 31-07, and 35-07,
38 immediately after the Council's public hearing at 1:30 which shouldn't take too long, so
39 hopefully we will be done by 2:00 for Committee worksessions that will start thereafter.
40 Okay? Thank you all very much. We have made good progress.



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**TRANSCRIPT
DATE**

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Michael Knapp, President	Councilmember Phil Andrews, Vice President
Councilmember Roger Berliner	Councilmember Marc Elrich
Councilmember Valerie Ervin	Councilmember Nancy Floreen
Councilmember George Leventhal	Councilmember Duchy Trachtenberg



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1 President Knapp,

2 Good afternoon, ladies and gentlemen. This is a public hearing on the intent to consider
3 increasing the FY09 General Fund Tax Rate above the Constant Yield Tax Rate.

4 Council committees began their work sessions on the budgets during April, and Council
5 work sessions are scheduled for May. Persons interested in submitting additional
6 information or attending the work sessions should call the Council office at 240-777-
7 7900 for information as to when specific budgets will be considered. Before beginning
8 your presentation please state your name clearly for the record. And we have one
9 speaker for this hearing - Juan Campos, speaking as an individual. Come up and press
10 the button. That starts the microphone. There you go. You've got three minutes.

11
12 Juan Campos,

13 Good afternoon, members of the Council and members of the public. My name is Juan
14 Campos. I'm a resident of Montgomery County for about 20 years. And I was a
15 homeowner. And the reason I'm here is because I read this in a newspaper against this
16 bill to increase property taxes. I believe that the real estate taxes are already very high
17 in Montgomery County, and more increase you will affect me, you will affect a lot of
18 citizens in Montgomery County. I own a small business and struggling to survive. And
19 by increasing this tax next year I'll have to pay more for my rent. I always had to pay
20 rent -- realty taxes for my house more next year if you increase this tax. And I know of
21 thousands of citizens will be affected from this Bill. So I ask you kindly to think twice
22 before you raise this Bill to increase property taxes. We are already paying very high
23 taxes -- income tax, federal, state, county, and we don't want no more tax -- we don't
24 want anymore tax. So I ask you kindly to think twice before you increase the taxes
25 again, because this is not the end. Three or four years from now you're going to do it
26 again and then we have to continue just because Montgomery County the expenditures
27 increasing, increasing, increasing, and the County think that we have an open
28 checkbook for just to increase expenditure. Since my business is struggling, I have to
29 cut on a lot of expenses because the money is not coming in. I don't go and raise my
30 fee to my client. I'm still charging the same. But the County thinks that just go ahead
31 and increase the real estate tax [inaudible] tax or something else to get the money that
32 you need. But I believe you should cut some of the expenditures that you have, you
33 know, instead of just raising and raising the taxes or any other fee that you might
34 charge. Thank you.

35
36 President Knapp,

37 Thank you very much. Just a second; we have a question. Thank you very much for
38 coming to testify. I appreciate your taking time out of your day to come do that. Council
39 Vice President Andrews.

40
41 Vice President Andrews,

42 That was really what I was going to say as well. I appreciate your taking the time out to
43 be here. It is important for the Council to hear all different perspectives on this, including
44 your views on how you're dealing and coping and with your own situation. And I think



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1 the Council is going to approach this in a very deliberate and take all views into account
2 about that. And I do think that people are feeling a lot of -- they're feeling squeezed. And
3 so we need to be sensitive to people's ability to afford a substantial increase in taxes at
4 this time, and do what we can to moderate it.

5
6 President Knapp,

7 And you suggested thinking twice, and I can assure you that this Council will think much
8 more than twice before we end up doing whatever we need to do on the taxes. We're
9 going to spend a lot of time trying to achieve the appropriate balance between the level
10 of services we provide to our residents, and what your ultimate tax rate will be,
11 especially as it relates to property tax. So we thank you very much for taking time for
12 coming up to share.

13
14 Juan Campos,

15 Thank you very much.

16
17 President Knapp,

18 Okay, this concludes that public hearing. Our next public hearing is a series of hearings.
19 This is a public hearing for the Council to receive testimony on the following four items:
20 a Resolution to Amend the FY09 Transportation Fees, Charges and Fares, and
21 generally Amend Resolution 16-452. A T&E Committee work session is tentatively
22 scheduled for April 28, 2008, at 9:30 a.m. A Resolution to establish FY09 Solid Waste
23 Service Charges to be effective July 1, 2008. A T&E Committee work session is
24 tentatively scheduled for April 24, 2008, at 9:30 a.m. A Resolution to establish the FY09
25 Water Quality Protection Charge to be effective July 1, 2008. A T&E Committee work
26 session is tentatively scheduled for April 24, 2008, at 9:30 a.m. And a Resolution to
27 amend fees for the Department of Permitting Services. A PHED Committee work
28 session is tentatively scheduled for April 24, 2008, at 2:00 p.m. Persons wishing to
29 submit additional comments should do so by the close of business on Friday, April 25,
30 so that individual views can be included in the material which staff will prepare for
31 Council consideration. Before beginning your presentation, please state your name
32 clearly for the record. We have one speaker, Reggie Jeter on behalf of the County
33 Executive. Welcome.

34
35 Reggie Jeter,

36 Good afternoon. My name is Reginald Jeter, and I'm speaking today on behalf of the
37 County Executive, Isiah Leggett, regarding the proposed resolution to amend the fees
38 for the Department of Permitting Services. The proposed resolution would increase all
39 fees by 2.3% in accordance with existing language in the current resolution governing
40 DPS fees, which allows DPS to adjust fees to account for labor costs. An additional
41 one-time fee increase of 2% has been added to cover costs associate with the new
42 credit card payment option for DPS customers to be implemented July 1, 2008. The
43 total fee increase for all fees in this resolution is 4.3%, except for the fee for special
44 exception enforcement. The proposed fee for special exception enforcement includes



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1 the 4.3% increase and an additional 40% increase to improve the cost recovery of the
2 enforcement and administrative costs of special exceptions. The fee increases in the
3 proposed resolution are consistent with the County Executive's FY09 recommended
4 budget. Lastly, since submitting the proposed resolution to Council, DPS has
5 determined that the two new work without a permit fees for home occupations and signs
6 should be deleted from the resolution. Instead of those fees, DPS intends to use the
7 civil citation process to address enforcement issues relating to home occupations and
8 signs. Thank you.

9
10 President Knapp,
11 Thank you. Councilmember Elrich. Turn on your mike.

12
13 Councilmember Elrich,
14 [Inaudible] question.

15
16 President Knapp,
17 Marc.

18
19 Councilmember Elrich,
20 I'll get used to this. Quick question. You said that you're able to increase your fees in
21 accord with labor costs.

22
23 Reggie Jeter,
24 That's correct.

25
26 Councilmember Elrich,
27 Last time I checked, our labor costs were going up, I thought, more than 2.3%. So, what
28 part of labor costs does this relate to?

29
30 Reggie Jeter,
31 It's a combination of actually labor costs, CPI that we've looked at. And because we
32 were raising the, I guess, the credit card adjustment as well as the 2%, we looked at all
33 of that together.

34
35 Councilmember Elrich,
36 But doesn't the 2% credit card adjustment just cover the fees that you pay the credit
37 card company in lieu of collecting cash.

38
39 Reggie Jeter,
40 It does, yes.

41
42 Councilmember Elrich,
43 So that's just a wash.



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1 Reggie Jeter,
2 Right.

3
4 Councilmember Elrich,
5 So the 2.3, does that cover labor cost increase?

6
7 Reggie Jeter,
8 It's -- for this coming year.

9
10 Councilmember Elrich,
11 That's with contracts at over 4% and greater than -- and [inaudible] inflation and -- .

12
13 Reggie Jeter,
14 Right.

15
16 Councilmember Elrich,
17 [Inaudible].

18
19 Reggie Jeter,
20 And I can provide you more detail on how we got to that 2% when we get to committee.

21
22 Councilmember Elrich,
23 Okay.

24
25 President Knapp,
26 That would be good.

27
28 Councilmember Elrich,
29 That would be good. Thank you.

30
31 President Knapp,
32 And so on the one-time increase so it's costing us 2% of every transaction for the credit
33 card?

34
35 Reggie Jeter,
36 That's correct. Each transaction is 2%.

37
38 President Knapp,
39 Okay. All right. I see no further questions. Thank you, Reggie. Okay. Agenda Item 19.
40 This is a public hearing on a Supplemental Appropriation to the FY08 Capital Budget
41 and Amendment to the FY07-12 CIP of the Department of Public Works and
42 Transportation in the amount of \$12,742,000 for the Ride On Bus Fleet. A T&E
43 Committee work session is tentatively scheduled for April 28, 2008, at 9:30 a.m.
44 Persons wishing to submit additional comments should do so by the close of business



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1 on Wednesday, April 23, 2008, so that individual views can be included in the material,
2 which staff will prepare for Council consideration. Before beginning your presentation,
3 please state your name clearly for the record. We have one speaker, Carolyn Biggins
4 on behalf of the County Executive.

5
6 Carolyn Biggins,

7 Good afternoon. Thank you, Mr. President and members of the County Council. Thank
8 you for the opportunity to testify in support of the supplemental appropriation for the
9 replacement of Ride On buses. This CIP project will allow us to purchase 42
10 replacement buses in fiscal 08 and 39 replacement buses in fiscal 09. It will allow us to
11 replace older, high-polluting buses in the Ride On fleet with new, clean-diesel buses
12 which meet the federal clear-air requirements for emissions. These replacement buses
13 will replace buses which are overage, replacing buses that are 13 to 16 years old.
14 These replacement buses are anticipated to be clean diesels. We considered other
15 options, including CNG and hybrid buses. However, CNG station did not fit into the
16 Brookville Road facility, and hybrid buses cost us considerably more. Clean diesels
17 meet the EPA's 2007 Clean Air Act requirements and more of the older diesels can be
18 replaced when we're purchasing clean-diesels rather than hybrids. The funding for this
19 project is short-term financing in fiscal 08 and predominately State and Federal grants in
20 fiscal 09. In the fiscal 09 budget, 42 replacement buses were budgeted, but the
21 Department of Finance has determined that the Master Lease Program is not
22 appropriate; hence, you have this CIP project. The Transportation Committee is taking it
23 up on April 28. Thank you.

24
25 President Knapp,

26 Thank you. Mr. Elrich.

27
28 Councilmember Elrich,

29 I under the problem with the CNG vehicles, but I had a question about the hybrids. I was
30 reading about Chicago, Illinois, which was -- which is making purchases of diesel --
31 these electric hybrids. And they cited the fuel saving in using these electric hybrids over
32 straight diesels as being so significant that the feels was that it paid for itself. And so
33 have we looked not just at the initial cost of these vehicles but the gas mileage that the
34 diesel and diesel electric hybrids create to see what the long-term implications.

35
36 Carolyn Biggins,

37 We have been looking at that. And, in fact, we have 14 hybrids in the Silver Spring fleet
38 today. So that's one thing that we're looking at as we're evaluating those kinds of things.
39 So we'll be talking to the T&E Committee as well about that.

40
41 Councilmember Elrich,

42 This is 81 buses, and so if you've got some experience, and I really think evaluating that
43 before you buy the next 81 would be really critical. And I understand they don't get very
44 good gas mileage to begin with; so getting an extra mile or two is actually -- while it



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1 seems small, it's a significant percentage of the gas mileage. So that would be -- I'd like
2 to know more about that as you go forward.

3
4 President Knapp,

5 Okay. And I just had a question on the financing. So it's short-term financing; do we
6 know what we're using, what the instrument is?

7
8 Carolyn Biggins,
9 I do not.

10
11 President Knapp,

12 Okay. And so -- but I'm assuming that this comes out of our GO Bond capacity?

13
14 Glenn Orlin,

15 It doesn't. What happens is -- I reviewed this actually with Finance the other day, all the
16 short-term financing proposals. They have different lengths of time. I don't recall the
17 length for this particular one. But essentially it's a -- it's not a lease, but it's similar to a
18 lease in that you're borrowing for a certain period of time. It's less than 12 years. And
19 the payback for principle and interest is actually counts as part of the feedback into the
20 debt indicators analysis for the spending affordability. So if you recall, when you look at
21 the 10% rate figure -- or the percentage of the Operating Budget, which is debt service,
22 that also includes long- and short-term leases, it would also include this -- these
23 payments. And so it does figure in that regard. It does not come off the top in terms of
24 the GO Bond SAG limit or current revenue.

25
26 President Knapp,

27 So we'd be appropriating a 12.7 million but we're only actually obligating ourselves to a
28 much smaller, ongoing payment of the next 12 years.

29
30 Glenn Orlin,

31 Well these payments are going to be paid back over the next -- I don't recall how many
32 years it is, maybe 10 years, maybe 8, maybe 12, but somewhere in that range. So you
33 are paying both principle and interest.

34
35 President Knapp,
36 Right.

37
38 Glenn Orlin,

39 But it's not long enough to be a General Obligation Bond.

40
41 President Knapp,

42 Councilmember Leventhal.

43
44 Councilmember Leventhal,



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1 Just following up on Mr. Elrich's question. We've just voted for a requirement that all
2 buses run on B20. So if -- it would be helpful for the T&E Committee, when we discuss,
3 if we could get the emissions estimates factoring in using 20% bio-diesel compared to
4 hybrids compared to CNG. So there must be some -- probably the manufacturers have
5 the data. But if we could make a comparison bus by bus on emissions and then also
6 dollars, but factor the bio-diesel into the emissions.

7
8 President Knapp,

9 Okay. I see no more questions, thank you very much. This concludes this public
10 hearing. We now have a public hearing on Zoning Text Amendment 08-04, which would
11 amend the Zoning Ordinance to allow certain accessory structures in the side yards of
12 one family residential zones, and generally amend the standards related to accessory
13 structures in one family residential zones. Persons wishing to submit additional
14 comments should do so by the close of business on May 9, 2008, so that your views
15 can be included in the material which staff will prepare for Council consideration. PHED
16 Committee work session will be scheduled at a later date. Please call 240-777-7900 to
17 check the committee schedule. Before beginning your presentation please state your
18 name and address clearly for the record, and spell any unusual names. We have two
19 speakers; Greg Russ speaking on behalf of the Montgomery County Planning Board,
20 and Neville Williams speaking on behalf of Standards Solar, Inc.

21
22 Greg Russ,

23 Thank you, Council President Knapp. For the record, Greg Russ from the Montgomery
24 County Planning Board. The Planning Board reviewed Zoning Text Amendment 08-04
25 at its meeting on April 17, 2008. The Board unanimously recommends approval of the
26 text amendment as introduced. The text amendment proposes to amend the Zoning
27 Ordinance to allow accessory structures used to generate electricity from solar energy
28 to be located in the side yard in any one-family residential zone if the main building is
29 set back no less than 70 feet from the side lot line. The amendment would require solar
30 panel located in the side yard to be located no less than 50 feet from a side lot line, and
31 less than 20 -- and is has to be less than 20 feet in height. The solar panel must also
32 satisfy the street line and rear lot line setbacks of the applicable zone. The Board
33 recognizes that the proposed minimum side yard setback of 70 feet for a main building
34 limits the applicability of the text amendment for a typical R60 zone lot. While it is
35 reasonable to assume that some potential exists for solar panels to be located in the
36 R90, R200 and R150 zones. In essence, the minimum lot widths for the larger lot single-
37 family zones appears sufficient in almost all cases to accommodate solar energy
38 structure in accordance with the text amendment parameters. The Board believes that
39 any potential visual impacts of pole- or ground-mounted solar energy structures in
40 residential areas would be minimized by the proposed setback requirements from the
41 side lot and through the current setback requirements from the street line. Overall, the
42 Board believes that the sustainability benefits associated with this renewable energy
43 source is a key component to protecting the environment. Thank you.



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1 President Knapp,
2 Thank you very much. Mr. Williams.

3
4 Neville Williams,
5 Thank you. My name is Neville Williams and I live in the Gaithersburg. I'm the founder
6 of Standard Solar, Inc., and I'm here with our Vice President of Operations, Lee Bristol.
7 We're here in support of the Zoning Text Amendment -- .

8
9 Councilmember Floreen,
10 804.

11
12 Neville Williams,
13 Yes, 08-04. Councilmember Berliner's submitted bill. Our company installs residential
14 solar electric systems at the rate of about one or two a week in the area, mostly in
15 Montgomery County. The ZTA was prompted by the need to make it possible in a few
16 cases to install a solar array in a side yard instead of a backyard, and only when putting
17 solar on a roof is not an option because it's slate or tile or facing the wrong direction, or
18 has too many eaves or dormers. These are typical pictures -- I can pass them around if
19 you want -- of a pole-mounted, ground-mounted systems as opposed to roof. And that's
20 what wasn't permitted previously. No waivers available. I can pass them around if you
21 want. Because we're in a heavily wooded area most of the county where a homeowner
22 wants to go solar and they prefer a ground-mounted or pole-mounted system, the solar
23 access may be best along the side of the house provided they have the sufficient
24 setbacks, which this Bill calls for. And present zoning prohibits this, and waivers are not
25 available. We think this Bill as written addresses this problem, and would remove any
26 impediments to solar installations in side yards whenever such installations would be
27 called for. Lee Bristol can answer any questions you have. Thank you.

28
29 President Knapp,
30 Great. Thank you very much. Councilmember Floreen.

31
32 Councilmember Floreen,
33 Thank you. I'd be interested in both of your observations as to whether the setback
34 requirements that are proposed here are necessary. I mean, is it -- I assume there's a
35 property that this would assist. But it's really rather a restrictive opportunity it seems to
36 me. I don't know exactly. I'm sure we'll get into it in committee. But I just -- is there some
37 sort of technical reason with respect to setback for these devices?

38
39 Lee Bristol,
40 Yeah, the easiest way to think of it is if you're neighbor has some trees -- .

41
42 Councilmember Floreen,
43 Maybe you could introduce yourself.



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1 Lee Bristol,

2 I'm sorry. Lee Bristol, Vice President, General Manager of Standard Solar. The easiest
3 way to think of it is if you're neighbor has some trees then you want to be able to put the
4 solar panels far enough back from the line so that your neighbor's trees don't interfere
5 with your sunshine.

6
7 Councilmember Floreen,

8 I mean, any of us who've investigated Direct TV have that issue if we live in -- or
9 something that requires some sort of cell-type device because of the tree-cover issue.
10 But I'm just wondering -- that's always an issue with respect to access to sun. My
11 question is, is there some kind of physical constraint or a functional constraint that
12 requires a lot of distance between these devices and other properties?

13
14 Lee Bristol,

15 No. No physical whatsoever. We just thought it would be appropriate to keep it
16 somewhat away from the property line of the people next door.

17
18 Councilmember Floreen,

19 Sure enough, because they -- .

20
21 Neville Williams,

22 I think it's to honor -- I'm sorry. I think it's to honor the intention of the zoning, which is
23 not to, you know, crowd any houses. They're already pretty close together, and
24 sandwich this stuff in between, which also would maybe not be so good with solar
25 access anyway. It's, as Lee said, it's sort of a good compromise between the intent of
26 the zoning and giving enough space to make it work.

27
28 Councilmember Floreen,

29 Well very few homes are actually this far apart, at least in certain parts of the County.
30 Maybe they are in others. Reggie did -- or rather, did the Planning Board worry about
31 this issue or talk about this?

32
33 Greg Russ,

34 What the Plan -- the reason the Planning Board thought that this amendment would be
35 workable was because of the setbacks that were provided here to protect the adjacent
36 properties in terms of windows from a side yard. And to have this distance it's actually
37 50 feet for this structure from the side yard actually minimize the visual impact for the
38 adjacent properties. And we thought it was an appropriate distance; debatable in terms
39 of how much you actually need there, but they certainly provide enough from the
40 standpoint of making the Planning Board feel comfortable with this.

41
42 Councilmember Floreen,

43 Is a solar panel now considered an accessory structure?



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1 Greg Russ,
2 Yes.

3
4 Councilmember Floreen,
5 It is. Okay, thanks.

6
7 President Knapp,
8 [Inaudible]. And our last public hearing for the afternoon is public hearing on the
9 [inaudible] Special appropriation Montgomery County Public Schools. A special
10 appropriation for the FY08 Capital Budget and an amendment to the FY07-12 CIP in the
11 amount of \$821,000 for Planned Lifecycle Asset Replacement. There's a special
12 appropriation to the FY08 Capital Budget in the amount of \$3,125,000 for Relocatable
13 Classrooms. Action is scheduled following the hearing. Before beginning your
14 presentation please state your name clearly for the record [inaudible]. The Education
15 Chair is not here. We took this up yesterday, and the committee was supportive of both.
16 So [inaudible]. [POOR AUDIO SOUND] We have [inaudible] before. All in support of the
17 committee recommendation for FY08 Capital Budget amendment to the [inaudible] for
18 \$821,000 for the FY08 Capital Budget \$3,125,000 for Relocatable Classrooms please
19 indicate by raising your hand. That is unanimous. Thank you very much. Okay, we no
20 turn back to our [inaudible] continuation of our discussion [inaudible] three remaining
21 Bills as it relates to -- if I can find my schedule -- there's global climate change activity,
22 and I believe we are -- the MFP Committee Chair is still detained, but she was going to
23 turn this portion of the discussion over to Councilmember Berliner. And so what I would
24 suggest is that we just pick up with Agenda Item #9, Bill 31-07, Real Property - Energy
25 Performance Audits, and start our work there. And I believe we have three more Bills to
26 complete our action. Councilmember Berliner.

27
28 Councilmember Berliner,
29 Thank you, Council President. And I hope we can be pretty quick with respect to these
30 items. This Bill started out to be far more ambitious. It was designed to try and bring
31 about retrofitting of our existing housing stock. It was designed to do that by requiring at
32 the time of sale that there be a home energy audit, that there be a home energy audit
33 that would be combined with a housing inspection or the kinds of inspection that
34 typically takes place at time of sale. And I thought that the home inspectors would think I
35 was the best thing in the world because I just increased their market; and lo and behold,
36 that wasn't quite the case. They thought this was the worst idea they'd ever heard
37 because it would increase the price of home inspections by \$150, and they were afraid
38 that there would be -- too many people would say no to home inspections, which
39 obviously is a rather critical part of what we were trying to achieve and what consumers
40 ought to do. So this was one of those instances in which one learns from the process,
41 and I was overreaching, perhaps, in my desire to ensure that there be a home energy
42 audit at time of sale. I believe that our consumers would be best served by having home
43 energy audits, but I don't believe it's appropriate to mandate them. So what we fell back
44 on was saying, well what is it that's most important? And I borrowed from the Vice



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1 President Andrews' notion with respect to that -- particularly with respect to housing,
2 people need to know the costs associate with it. So as Councilmember Andrews had
3 put forward a proposal, which this Council unanimously embraced as to ensure that the
4 tax consequences of buying a house was understood. In that same vein, the committee
5 has concluded that making sure that new home buyers understand how much the utility
6 bills are going to run them is a critical piece of information that they should and must
7 have. And so this Bill now, instead of requiring a home energy audit, merely requires
8 two things. It merely requires people to provide 12 months' worth of utility information
9 where that information is available; and it requires the dissemination by the real estate
10 broker of DOE's, energy efficiency, retrofit guidebook that would simply allow
11 consumers, at the time of sale, to understand how much it's costing them to heat and
12 cool their home, and how easy it is to address that through retrofitting of their home. So
13 that's really all this Bill does at this point. I think it does make a significant advance
14 simply reinforcing the notion that utility bills, other than the mortgage, are the biggest
15 expense that people have. So when we're dealing with particularly in foreclosure
16 situation where people are on the margin and they are struggling to pay the cost of their
17 house, this is the kind of information, these are the kinds of actions that people can take
18 that would put them on the right path. So I don't -- quite frankly I amended this Bill to the
19 point where we actually have the support now of the real estate industry. So I don't
20 believe there's any controversy. Pepco is very comfortable with the Bill, and so are the
21 realtors. So have found the happy medium there.

22
23 President Knapp,
24 Okay. Councilmember Elrich.

25
26 Councilmember Elrich,
27 In thinking about this and having some discussions with somebody, one thing that I
28 think maybe the sustainability working group could look at was creating the equivalent
29 of what you see on an appliance where you see the appliance and it has its energy
30 rating versus the range of other energy ratings for similar appliances. And it is possible
31 it's been suggested that there are some standards for what it ought to cost to heat and
32 cool so many square feet of a house and in a new house. And so while you -- it doesn't
33 get to the energy audit directly, it does get to the point that you can look at the house's
34 energy bill relative to say a new highly efficient house and a typical house. And so they
35 might look at ways of trying to supplement the information in a way that would make it a
36 little bit more -- even more meaningful.

37
38 Councilmember Berliner,
39 And, in fact, that is part of the incentives that we have asked them to look at for existing
40 homes as to how we can bring about retrofitting of existing homes that is in the previous
41 one -- Bill that this Council just approved. So with that, Council President -- I'm sorry.

42
43 President Knapp,
44 Councilmember Leventhal.



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Councilmember Leventhal,

Are we really accomplishing anything here? I mean, I didn't support this Bill when it was introduced, and I'm not clear what -- now it has been denatured and I appreciate the willingness to compromise and, you know, compromise is important. But what are we doing? I mean, I don't understand this material approved by the department; why is that a burden on the seller? In other words, if the department is going to standardize -- it's not going to be specific to the home, right? It's going to be a pamphlet that says you should get a home energy audit; here are the benefits. So why must the seller provide it.

Councilmember Berliner,

Well, first of all let's get to your larger question as to whether this is making any advance in terms of public policy.

Councilmember Leventhal,

Yeah.

Councilmember Berliner,

I believe the submission of 12 months worth of utility bills to a homebuyer is a significant advance. It is the second largest cost that a homebuyer has. So for them to recognize does this house cost \$500 a month to heat? Does it cost \$1,000 a month to heat? Does it cost \$100 a month to heat? I think is very important consumer information that leads directly into whether or not they should be motivated to make the kinds of improvements in their house that the information that is simply a DOE pamphlet that I believe the realtors have agreed to pass out would serve to underscore as to how they could go take the next step to address the difficulties with their home. So, yes, I believe it is a step in the right direction, and it's not as far as I would have preferred we go. So that's the larger -- .

Councilmember Leventhal,

So every realtor in Montgomery County is going to have lots and lots of these pamphlets available, and when you go to closing -- or when you sign a contract -- the timing I'm not clear on here. First of all, we're imposing the requirement on the seller; so what if the seller doesn't have a realtor? What is the seller is self -- doing it all by himself? Now he has to be educated enough not only to go through the process of selling his home, but he has got to -- he's violating the law unless he gets a hold of a copy of this pamphlet.

Councilmember Berliner,

Yes, sir, that would be true.

Councilmember Leventhal,

Okay. And in my case, okay, my wife runs a daycare in the home. We have gigantic water bills, unbelievable. If you saw my water bill, you'd say oh my gosh, what's



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1 happening? You must be flooding everyday. But in fact, we just have lots of little boys
2 and girls, you know, using the toilet all day long. So we have a lot of water usage in our
3 house.

4
5 Councilmember Berliner,
6 Okay, it's more information than I need to hear, but [inaudible] -- .

7
8 Councilmember Leventhal,
9 I understand it's a lot of information. The point is different families have different --
10 particularly with water. A larger family selling to a smaller family, the water usage may
11 not be a relevant fact.

12
13 Councilmember Berliner,
14 Right. This does not just go to water usage.

15
16 Councilmember Leventhal,
17 Yes, it does.

18
19 President Knapp,
20 [Inaudible].

21
22 Councilmember Leventhal,
23 Why is that useful? Why is it useful to me to know someone else's water use unless it
24 proposes a plumbing problem? But I would find that out in the home inspection
25 presumably. I mean, I didn't support this Bill in the first place, and I'm feeling like we
26 compromised but we're pushing out a Bill just in order to get a Bill. And I'm not entirely
27 clear that the juice is worth the squeeze.

28
29 Councilmember Berliner,
30 I appreciate -- .

31
32 Councilmember Floreen,
33 [Inaudible].

34
35 Councilmember Berliner,
36 I'm happy to excise water bills. It was not the point, so, I mean, if people are concerned
37 that the -- because it isn't a global warming consideration, it is not a climate change
38 consideration, and it is typically not a big item. So if my colleagues are concerned that
39 this -- that the scope of the Bill is too broad by including water, I'm happy to pare it back.
40 The goal was to have people's electric and gas information available to them.

41
42 Councilmember Leventhal,
43 All right. Well, I really do appreciate Mr. Berliner's good efforts here. This is the one
44 where I'm just concerned about the nuisance factor on individual home sellers and



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1 home buyers. And I was concerned -- it's less certainly now that you're not requiring the
2 home energy audit, but it's still -- I'm afraid you're going to wind up with a lot of people
3 running afoul of this requirement. They're legally required to provide a pamphlet. They
4 may not know they have to provide it. Does that void the sale if they didn't provide it?

5
6 Councilmember Berliner,
7 If staff would care to opine with respect to this matter that had not been discussed
8 previously?

9
10 Councilmember Leventhal,
11 Does it put a shadow on the title to the house -- ?

12
13 Michael Faden,
14 No.

15
16 Councilmember Leventhal,
17 If the seller fails to comply with this requirement? Why are you so confident it does not?

18
19 Michael Faden,
20 Because the -- .

21
22 Councilmember Leventhal,
23 County law says the seller must provide the buyer with this pamphlet. What if the seller
24 doesn't know about that county law and then years later the title is challenged?

25
26 Michael Faden,
27 It would take an explicit provision in here to say that it voids the sale. That is true in
28 certain other notice provisions; not very many. Now this would be enforceable by the
29 Office of Consumer Protection, which in theory could cite someone for not providing the
30 information, again similar to a number of other notice provisions for single real estate
31 sales in the county law. The experience has been that people do do it, certainly the
32 realtors who are very well organized do it, and individual home sellers don't seem to, in
33 general, have issues with providing this sort of notice. At least that's not been the
34 experience to date.

35
36 Councilmember Leventhal,
37 Okay, I would like the same request to go to the Office of Consumer Protection that
38 Councilmember Ervin made of the Department of Environmental Protection. I think
39 we're badly underestimating the long-term costs of all the requirements we're imposing
40 here. And Consumer Protection is having to do a lot of things. And each individual fiscal
41 note says the addition of this marginal new responsibility will not add to costs, but we're
42 adding a bunch of new requirements. Because they said there was no cost to Mr.
43 Andrews' excellent proposal on property taxes, but obviously there's a cost. They're
44 having to do a lot of work on it. And now they're going to have to promulgate this



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1 pamphlet and make that widely available. Plus which they're going to have to comply
2 with the Domestic Workers Bill. We need to have some sense for budget about the
3 requirements on consumer protection of at least these three Bills. The combined effect
4 of the property tax, the domestic workers and this home energy, whatever we call it
5 now.

6
7 President Knapp,
8 Councilmember Elrich.

9
10 Councilmember Elrich,
11 I was just going on the one hand, Roger, I'd be happy to go along with you if it's
12 acceptable. But I just want to point out that you could make the same argument that the
13 electric bills in the same house were extraordinarily high because, you know, the lights
14 are on all day and the kids are playing with computers. And I think it's easier just to say
15 to somebody the bills are what they are, but I ran a business out of the house and
16 therefore we used more water and we used more electricity. This isn't like -- it's not
17 meant to be a scientific analysis of the energy usage, it's just meant to give a snapshot.
18 And if there are extenuating circumstances, then there are extenuating circumstances.
19 So I don't feel the need myself to have you remove the water. But if that's your
20 disposition then fine with me.

21
22 President Knapp,
23 Councilmember Floreen.

24
25 Councilmember Floreen,
26 Thank you. I just had a couple of questions for clarification. This applies to the sale of a
27 single-family home. Do you mean single-family detached home, or is this to isolate from
28 a condominium? I just didn't know.

29
30 Councilmember Berliner,
31 Single family is defined -- go ahead.

32
33 Amanda Mihill,
34 Single family, if you look on circle 2 line 21, is defined as a single-family detached or
35 attached.

36
37 Councilmember Floreen,
38 So it's detached and attached.

39
40 Amanda Mihill,
41 Yes.

42
43 Councilmember Floreen,



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1 Okay. And then what about owner-occupied; is this intended to apply to any kind of
2 unit? I'm just thinking of questions that would arise in terms of its implementation. It
3 assumes that it is an owner-occupied.

4
5 Amanda Mihill,
6 It's not one that's an owner-occupied, it's any single family.

7
8 Councilmember Floreen,
9 Right, but the seller may not have access to utility bills.

10
11 Councilmember Berliner,
12 There is a provision, I believe, on lines 53 through 56 on circle 4; if the seller did not
13 occupy the single-family home for the entire prior 12 months, the seller -- for the period
14 that the seller occupied the single-family home.

15
16 Councilmember Floreen,
17 Okay. Well I just wondered if you had worry about that.

18
19 Councilmember Berliner,
20 Yes, we did. We tried to address that.

21
22 Councilmember Floreen,
23 Because that doesn't -- yeah.

24
25 President Knapp,
26 Council Vice President Andrews.

27
28 Vice President Andrews,
29 Thank you. I think this is a good consumer information Bill. I think I can understand the
30 rationale for limiting it to measures -- impacts that would affect global warming since
31 that's what it was designed to do. But I think that it's important to add heating oil as part
32 of this coverage, because people use oil as well as electric and gas for heating their
33 homes in the county. And I would suggest that would be a good amendment to ensure
34 that you're not leaving that out of this. So if that would make sense to add in while
35 you're taking the water out.

36
37 Councilmember Berliner,
38 So I would accept that as a friendly amendment on lines 50; copies of the electric, gas
39 and home heating oil, and delete water bills.

40
41 President Knapp,
42 All right. I see no objection. Councilmember Leventhal.

43
44 Councilmember Leventhal,



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1 I wasn't present for the MFP discussion of this Bill. There are homes that are bought
2 and sold by property owners who never reside in the home. You know, we may not like
3 those speculators or investors or whatever we call them, but they do exist. They do exist
4 in Montgomery County, and so what are we going to do for them? How are they going
5 to get access to the utility bills of their tenants? Are they going to mandate that their
6 tenants fork over their utility bills. The bill says that if you didn't live in the house for the
7 last 12 months then maybe you lived there 20 years ago, 30 years ago, 40 years ago;
8 you've got to go back and dig up the utility bills from when you lived there. Well that's
9 hard enough. I actually am the owner of a home that I lived in once and that I don't live
10 in anymore, and the tenants live in now. I could not reconstruct my utility bills. So I could
11 not comply with this requirement if and when I choose to sell the home that I own. I
12 have no idea how I will reconstruct the utility bills from that period of time when I live in
13 that house from 1989 to 1996. I don't know how I'll get those utility bills. And
14 furthermore, there are situations where people never lived in the home, and yet they're
15 still the seller of the home. So I don't want to do this. I got to tell my colleagues. I just --
16 we're imposing a hassle factor on the sale of a home that I have some depth on these
17 issues of providing information and promoting energy efficiency, and I just think we're
18 imposing a hassle factor on the sale of a home. And the upside -- I don't mind
19 distributing the pamphlet. If you want to require that the Office of Consumer Protection
20 make a pamphlet available at the time of sale extolling the benefits of home energy
21 audits, I have no problem with that. But this paperwork requirement you got to go back
22 and reconstruct your gas, water, heating oil; I think we're going to regret it. I think we're
23 going to get a lot of complaints. I think you're going to have sellers and buyers who are
24 going to complain to us in the years to come. And I don't think it's going to incent (sic)
25 all that many home energy audits. If people were inclined to get home energy audits,
26 they would be getting them. I don't think learning that you spent, you know, an average
27 \$275 a month on gas and electric in and of itself is going to -- I'd rather find some other
28 incentive to get people to do home energy audits. I just -- the paperwork requirement
29 here -- I'm just -- constituents are going to complain to us so be prepared for the email
30 that's going to come when we impose this new requirement. And help me figure out how
31 I'm going to comply when I sell the rental home that I own, because I have no idea my
32 utility bills were in the last year that I lived in that home.

33
34 President Knapp,

35 I was going to ask staff if we have to have any conversation with anybody as to if you
36 haven't been an owner of a property and are selling it, can you gain access to those --
37 that utility information?

38
39 Michael Faden,

40 I wouldn't assume that you could, so I think a clarifying amendment we were just talking
41 about that would deal with the questions Mr. Leventhal is raising. If you wanted on line
42 55 on circle 4 instead -- .

43
44 President Knapp,



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1 Line 55 on circle 4.

2
3 Michael Faden,
4 At the end there, instead of saying the period. I think the intent was more limited. So I
5 would say for the part of the previous 12 months if any that the seller occupied the
6 home. So that if the seller personally did not occupy the home at any point during the
7 previous 12 months, there is not requirement to provide this information.

8
9 Councilmember Berliner,
10 I would be happy to accept staff's recommendation with respect to that.

11
12 President Knapp,
13 So read that one more time. Starting where?

14
15 Councilmember Berliner,
16 That it is limited to owner-occupied homes in effect.

17
18 Michael Faden,
19 At the end of line 55 for the -- for that part instead of the period -- for that part of the
20 previous 12 months, if any, and then continuing on.

21
22 Councilmember Berliner,
23 I appreciate staff's recommendation. That would in effect limit the scope of this Bill to
24 owner-occupied homes.

25
26 Councilmember Floreen,
27 For the utility.

28
29 Councilmember Berliner,
30 For the utility portion.

31
32 Michael Faden,
33 Right.

34
35 President Knapp,
36 For that part of the previous 12 months, that the seller occupied.

37
38 Councilmember Berliner,
39 And again, the realtors were comfortable with this.

40
41 President Knapp,
42 Okay.

43
44 Councilmember Berliner,



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1 We have a letter of support regarding this provision.

2
3 President Knapp,
4 Mr. Elrich has a question, but I see him conferring in the back.

5
6 Councilmember Elrich,
7 I was conferring [inaudible].

8
9 President Knapp,
10 All right. I didn't see any objection to the amendment that has been proposed by
11 [inaudible] clarifying by staff. Mr. Elrich, still have a comment? No. All right. I see no
12 further discussion on Bill 31-07, Energy Performance Audits as amended. Madam
13 Clerk, if you would call the roll.

14
15 Council Clerk,
16 Mr. Elrich.

17
18 Councilmember Elrich,
19 Yes.

20
21 Council Clerk,
22 Ms. Floreen.

23
24 Councilmember Floreen,
25 Yes.

26
27 Council Clerk,
28 Mr. Leventhal.

29
30 Councilmember Leventhal,
31 No.

32
33 Council Clerk,
34 Ms. Ervin.

35
36 Councilmember Ervin,
37 No.

38
39 Council Clerk,
40 Mr. Berliner.

41
42 Councilmember Berliner,
43 Yes.



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1 Council Clerk,
2 Mr. Andrews.

3
4 Vice President Andrews,
5 Yes.

6
7 Council Clerk,
8 Mr. Knapp.

9
10 President Knapp,
11 Yes. The Bill carries 5-2. Okay. We now turn to Bill 33-07, Renewable Energy.
12 Councilmember Berliner.

13
14 Councilmember Berliner,
15 All right. Let me -- what is being passed out now is a staff amendment. The principle
16 objective with respect to this legislation is to provide property tax credits akin to what
17 other counties provide, Howard County in particular, for solar and geothermal; and also
18 to provide a property tax credit for energy conservation devices consistent with state
19 law. So we provide two pots of dollars with respect to both renewable and geothermal
20 on the one hand, and energy conservation. The committee attempted to ensure that
21 those dollars were spread out as much as possible by limiting how much could be used,
22 particularly with respect to energy conservation up to \$250, I believe; and to limit how
23 much any one taxpayer could use with respect to solar and geothermal, so that they
24 didn't gobble it all up. So this is among the most cost effective ways that we can move
25 for cleaner energy and particularly on the energy conservation side where I'm
26 particularly pleased that the committee expanded the scope of it to include energy
27 conservation, because as we've discussed repeatedly today, saving energy is the
28 cheapest energy we can obtain. It is "a nega-watt" that is really the most valuable
29 resource we have. So in addition, this Bill assigns to the sustainable working group the
30 issue of coming up of looking at whether or not we should have a sustainable energy
31 fund. Recognize again that to the extent to which our bills fall short of the mark that one
32 of the outstanding issues is how do we provide a pot of dollars and an incentive
33 mechanism whereby we can in, in fact, retrofit our existing buildings. Finding those
34 dollars, as Councilmember Leventhal has pointed out, is the biggest barrier. So in the
35 past other jurisdictions like Delaware have adopted a sustainable -- excuse me -- a
36 competing source of dollars to the utilities that would be a sustainable energy utility, is
37 what they were described as. And that was a little weird, sustainable energy utility,
38 because people didn't know what a sustainable energy utility was when in fact really it's
39 about providing a fund. But Pepco, for example, has said please don't adopt this fund
40 because we want to provide these -- the dollars associated with that. So we decided
41 that we wouldn't adopt it, but that we would ask the County Executive to explore this
42 option, because we do need to find ways in which we can come up with the front end
43 dollars that would allow people to finance retrofitting their homes and existing buildings.
44 So that is the fundamental. The last item was to ensure that homeowner associations



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1 do not take measures which would preclude solar energy, and, like state law, the
2 County is now -- this measure would ensure that homeowner associations can't -- do
3 not have the power to preclude solar energy. And we exempted from that historic
4 preservation and forest conservation areas, so that we made sure that we honored the
5 intent of those areas. But that's basically what we have before us. And my hope would
6 be that the Council would endorse the work of the MFP Committee with respect to this
7 matter.

8
9 President Knapp,
10 Councilmember Floreen.

11
12 Councilmember Floreen,
13 Thank you. Just a couple of questions. On circle 4, what this provides is that a person
14 can't create and enforce any deed restriction, covenant rule regulation, or take any
15 action that would prohibit the owner of any building from installing a renewable energy
16 device; is this -- and it says that it would apply to every rules in place now. That's right?
17 So this means HOA-type rules against solar panels and the like would be -- .

18
19 Councilmember Trachtenberg,
20 Yes.

21
22 Councilmember Floreen,
23 Then overridden by this. And we can do this?

24
25 Michael Faden,
26 Yeah, this is modeled on another county law passed close to 20 years ago that came up
27 after an HOA tried to restrict a homeowner from putting on a safer type of roofing than
28 the previous roofing originally on the property, and the homeowner said basically they
29 were being restricted from making their unit -- their building as safe as possible. And it
30 was an existing rule that did that, and so the section in the County Code that restricted
31 that had this exact language in it about existing restrictions.

32
33 Councilmember Floreen,
34 Okay. Well I would -- I don't know what kind of communication has gone out to HOA's,
35 but it's certainly something that we'll need to do to let them know about this. And then
36 my question was -- well I just got an Energy Star washer and dryer, because my old one
37 died. Share more personal information. Would that would be -- would I get -- be entitled
38 to get a credit? Is that a renewable energy device?

39
40 Unidentified,
41 It doesn't generate [inaudible].

42
43 Councilmember Floreen,



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1 Well, I don't know. Because it says any other device which controls demand of
2 appliances and aids load management, or any other conservation device that the
3 director finds necessary to assure that energy conservation measures are effective. So
4 my question goes to appliances. Does this apply to appliances, a typical consumer
5 choice?

6
7 Councilmember Leventhal,
8 What lines were you reading, Councilmember Floreen?

9
10 Councilmember Floreen,
11 On circle 5 there's language between line 93 and line 98.

12
13 Councilmember Berliner,
14 I could speak to lines 93 [inaudible].

15
16 Councilmember Floreen,
17 I mean, I don't know what the intention of the author was.

18
19 Councilmember Berliner,
20 The intention of the author, with respect to this was not to apply them to appliances.
21 This is a load control device as in effect a smart meter. It is something that flips off your
22 air conditioner.

23
24 Councilmember Floreen,
25 Yeah, I know they have those.

26
27 Councilmember Berliner,
28 Every 15 minutes or so.

29
30 Councilmember Floreen,
31 I actually have one like that.

32
33 Councilmember Berliner,
34 Good for you. So it was intended to be devices that control. You're absolutely right,
35 there is the open-ended 95 through 98 that says, any other conservation device,
36 renewable energy technology, and specific home improvement that the director finds
37 necessary to assure that energy conservation measures are effective. It was intended to
38 ensure that we didn't limit the discretion, but we've identified the particular items. It is
39 not my expectation that an appliance would qualify under that basis.

40
41 Councilmember Floreen,
42 Well if that's the case, I think we should say so. Because I certainly would read it to
43 apply.



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1 Councilmember Leventhal,
2 Yeah, we're not [inaudible].
3
4 Councilmember Floreen,
5 Or at least Mr. Hoyt will be very busy writing his regulations extremely quickly to exclude
6 it. I think if that's our intent, we should say that.
7
8 Councilmember Berliner,
9 I'm fine for adopting an amendment that would make that clear.
10
11 Councilmember Leventhal,
12 But does not include regular home appliance such as washer, dryer, refrigerator,
13 dishwasher.
14
15 Councilmember Floreen,
16 That's [inaudible], yeah.
17
18 Councilmember Berliner,
19 I'm fine with that amendment.
20
21 Councilmember Elrich,
22 I think the comment starts on line 76 on page 4, which says, [inaudible] demand
23 [inaudible] fuels or efficiency of these fuels.
24
25 President Knapp,
26 Well let's ask -- .
27
28 Councilmember Elrich,
29 Including.
30
31 Councilmember Floreen,
32 Yeah.
33
34 Councilmember Elrich,
35 And that's where you'd kind of trigger it there, because everything -- any of these
36 [inaudible] could fall into that.
37
38 President Knapp,
39 All right.
40
41 Councilmember Berliner,
42 Understood. That's why I'm happy with the clarification.
43
44 President Knapp,



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1 And the clarification reads as what?

2
3 Councilmember Berliner,
4 But not including -- .

5
6 President Knapp,
7 Beginning where? I just want to make sure we got it clear.

8
9 Michael Faden,
10 We would do a new paragraph starting after line 100 to say, energy conservation device
11 does not include, and then list the things that you -- .

12
13 Councilmember Floreen,
14 I think you need to be specific, because you are intending this to apply, I think -- well are
15 you -- it's not applying to water heaters? Or it might apply to water heaters. Certainly
16 furnaces.

17
18 Councilmember Berliner,
19 Water heater installation, it does.

20
21 Councilmember Floreen,
22 I know, but they -- .

23
24 Councilmember Berliner,
25 Improving the efficiency of a water heater, but not the purchase of new.

26
27 Councilmember Floreen,
28 Well, I don't know how they come these days. But I'm waiting for mine go out and I'll
29 find out soon. But I do think in these areas it's important to be clear.

30
31 President Knapp,
32 So we have clarifying amendment on after line 100 that recognizes the exemption of
33 standard household appliances, language to be circulated by staff once they figure out
34 how exactly to define standard household appliances.

35
36 Michael Faden,
37 But we will use the term standard household appliance, and then -- .

38
39 Councilmember Floreen,
40 I think that's a good idea.

41
42 President Knapp,
43 Okay.



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1 Councilmember Floreen,
2 And be clear that's -- oh, darn, there goes my credit. And then likewise on circle 6, I'm
3 just being your lawyer here, Roger.

4
5 Councilmember Berliner,
6 I'm sorry, circle?

7
8 President Knapp,
9 Circle 6.

10
11 Councilmember Floreen,
12 Circle 6, line 122. What are eligible -- do we know what -- have we defined eligible costs
13 that you can get a credit against?

14
15 Michael Faden,
16 Look at -- .

17
18 Councilmember Floreen,
19 Or is it [inaudible].

20
21 Michael Faden,
22 For the latest version, look at the amendment that staff passed out.

23
24 Councilmember Floreen,
25 Oh, I see you have worried about that, fine. It's the whole cost.

26
27 Michael Faden,
28 But there are -- .

29
30 Councilmember Floreen,
31 Acquisition.

32
33 Michael Faden,
34 It's the whole cost, except that there are some pretty tight limits on it.

35
36 Councilmember Floreen,
37 Fine, but we've defined it. That is -- .

38
39 Councilmember Berliner,
40 Staff anticipated your concerns.

41
42 Councilmember Floreen,
43 Clearly, that's good. Okay. Okay. Thank you.



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1 President Knapp,
2 Councilmember Leventhal.

3
4 Councilmember Leventhal,
5 Okay, I know Roger is getting scared every time I turn my light on. I like this Bill a lot.

6
7 President Knapp,
8 We'll start with that.

9
10 Councilmember Leventhal,
11 But let me understand.

12
13 Councilmember Berliner,
14 But here's the but.

15
16 Councilmember Leventhal,
17 Let me understand a couple aspects of it. Now are these credits available to any
18 property owner; residential, commercial, rental property, investment property, whatever,
19 right? Anyone can get this credit if they are the property owner and they install these
20 mechanisms.

21
22 Amanda Mihill,
23 Owner occupied.

24
25 Councilmember Leventhal,
26 Where does it say owner occupied?

27
28 Amanda Mihill,
29 It's on page -- circle 6, line 116.

30
31 Councilmember Leventhal,
32 Okay.

33
34 Amanda Mihill,
35 It's owner occupied residential.

36
37 Councilmember Leventhal,
38 Do we want to put on the table the issue which gets to the retrofitting that we were
39 talking about earlier of whether owners of commercial or rental property ought also to be
40 able to qualify for these; at least rental properties?

41
42 Councilmember Berliner,
43 I am open to providing this incentive to owners of rental property.



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1 Councilmember Leventhal,
2 Now, let me disclose I am an owner of rental property.

3
4 Councilmember Berliner,
5 Okay.

6
7 Councilmember Leventhal,
8 But I'm not uniquely affected by this. But I'm just trying to think of -- I mean, I like this Bill
9 for many reasons, but it gets at some of the points we've been raising earlier. This will
10 encourage precisely the type of home improvements that, in my opinion, the earlier
11 build did not incentivize very effectively.

12
13 Councilmember Berliner,
14 Understood.

15
16 Councilmember Leventhal,
17 But I think this does. And ditto for the conversation we were having earlier about multi-
18 family housing. This would provide a very useful incentive for owners of multi-family
19 housing. Having said that, I have a concern about the quarter-million-dollar cap. And I
20 appreciate Mr. Berliner's effort to be fiscally responsible. But with the experience of
21 clean energy rewards, I'm concerned that there are some equities here insofar as, you
22 know, the money is going to run out. If we're successful people are going to encounter a
23 closed door from the County if they get in on day 66 of the program, and oops, the
24 money ran out on day 65. And that causes me concern. And, in fact, as with clean
25 energy rewards, I'm concerned that we're going to invest money in promoting the
26 availability of this. We'll have to communicate with the public. And it will be so
27 successful that the money that we spend on promoting it, as with clean energy rewards,
28 will be money down the drain because a few lucky people will come in the door early
29 and then the door will slam shut. And so this -- so I just raise this question; how will we
30 administer this \$250,000 limit? And what do we do about this equity issue? Someone
31 learns about it later and they're out of luck because the money is gone.

32
33 Councilmember Berliner,
34 I believe we had a provision. Go ahead.

35
36 Amanda Mihill,
37 Sure. If you look on circle 7, lines 135 sort of -- it gets to what Mr. Leventhal is talking
38 about, in that paragraph 3 says that if an application would cause the limit to exceed the
39 \$250,000 then that application would go to the front of the line next year. So it's not a
40 complete shutout; it would be delayed.

41
42 Michael Faden,



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1 And the line just above it say it's basically first come, first serve. And also on the bottom
2 of circle 6, there is language that lets in the Operating Budget the \$250,000 limit would
3 be raised, so it's a default limit.

4
5 Councilmember Leventhal,

6 Well, sure, and we the Council could appropriate more money to clean energy rewards
7 if we wanted to, but it would be a six-vote appropriation, and we would have opposition
8 from the County Executive. And it's more difficult.

9
10 Councilmember Berliner,

11 Well I had sought to address your issue with that language on line 130 of circle 6,
12 unless a larger amount is appropriated. I was trying to recognize the fiscal realities that
13 we're in, and not make this so expensive now that we have our funding vehicle through
14 the carbon surcharge, we may decide to revisit this issue. But I felt to start the program
15 this way was an appropriate way to begin.

16
17 Councilmember Leventhal,

18 Let me also understand when we use the phrase appropriated. This is a credit against
19 tax. It's really revenue foregone, isn't it? Do we appropriate these dollars?

20
21 Michael Faden,

22 I think that's a good point. We probably should change the word appropriated to
23 allowed, and therefore, we would have a provision in the budget resolution one of the
24 spending conditions which says the credit under this may be up to whatever higher
25 amount.

26
27 Councilmember Leventhal,

28 Let me just run this by my colleagues. Go we let this go for a year and just forego the
29 revenue that we forego? And for one year let people apply for this and get it. And then if
30 we find that we're creating a revenue crisis after -- it's not going to be that great. I mean,
31 the cost of the geothermal system is in the range of \$45,000. The number of people
32 who are going to do this -- and they'll get a 50% credit against that. So, I mean, the
33 number of people that going to spend 50-cents on the dollar for an expenditure of this
34 size is self-limiting. And if you're going to give people 50-cents on the dollar for, you
35 know, insulation around their water heater, that's pennies. I mean it's not -- it's a few
36 dollars. So I don't think the revenue loss is going to be so extreme that we're opening --
37 we're going to bankrupt ourselves by, in effect, making it an entitlement in the first year,
38 and then let's go back and look at the end of a year as to how much revenue we forego.
39 I'm concerned that we waste money on promotional efforts and then have to turn people
40 away, or tell them wait a year or wait two years, or accumulate this long waiting list. I'm
41 concerned about that. And who's going to keep record of that here again. Now is that
42 the Finance Department? Are they adding staff to keep track of all the people who are
43 entitled to a credit against property tax in years two, three and four? I don't know if
44 we've really thought through the administration of this.



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1
2 Michael Faden,

3 A fiscal impact statement on circle 11 basically says that Finance can do it with existing
4 staff, because they don't anticipate that many applicants.

5
6 Councilmember Leventhal,

7 Yeah, I don't anticipate that many applicants. So I'm just asking for the sense of my
8 colleagues here. Do we feel strongly about this \$250,000 limit? In my opinion, you
9 know, having run out after a \$361,000 appropriation for clean energy rewards, I think
10 the Council probably would have smiled upon an extra \$100,000 or \$200,000 for that
11 purpose. But we haven't had the chance. We'll take it up in budget. The program was
12 interrupted really without asking our permission. I'm concerned we may not even know.
13 I mean I got complaints when people applied for clean energy rewards and oops, they
14 found out the program had been terminated. I'm afraid we're setting ourselves up for
15 similar disappointment here.

16
17 Councilmember Berliner,

18 And I just want to make sure that my colleague appreciates that it's two pots of
19 \$250,000; it's a total of \$500,000. It's \$250,000 for solar geothermal, and \$250,000 for
20 energy conservation; so it's a total of \$500,000 under this Bill.

21
22 Councilmember Leventhal,
23 Yeah, that's pretty high.

24
25 Councilmember Berliner,

26 So I'm pretty comfortable that that's a good way to start. Myself, I know that the Chair of
27 MFP has expressed her own concerns with respect to the budget, so I feel like we get
28 pretty good bang for the buck here.

29
30 Councilmember Leventhal,

31 Okay, let me ask then that the Finance Department and the sustainability working group
32 really monitor this so that the Council has ample early warning if we're just chasing
33 through the dollars. Because, you know, I think if we had known timely with clean
34 energy rewards back in January or December, absolutely we would have appropriated
35 another \$200,000 to keep the program going. But instead it was halted and we found
36 out later. And I'd be sorry if this were successful and we had to halt it. I think if it were
37 successful we'd want to raise the cap for another couple hundred thousand dollars. We
38 want to promote this kind of activity.

39
40 President Knapp,

41 Councilmember Floreen.

42
43 Councilmember Floreen,



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1 Thank you. I'd just in the fiscal side, you know, we really do -- we're having a hard time,
2 at least in the committees I'm involved in, in dealing with the dollar issues. And I think
3 these are good goals that I support. But we are not funding the clean energy rewards to
4 the extent to which it should be funded, George. And I think, you know, this is all a
5 balancing act. So I think is an okay start. I do worry, well, it will take time for people to
6 get in line. But I do worry about how we're going to pay for all this. This is a real issue,
7 and it's actually the more we hear about the economic forces out there, I think it's going
8 to be a continuing issue. So, A, including a limit, and, B, allowing some -- allowing us to
9 revisit the issue on an annual basis, I think, is a good one. I wanted to return now to the
10 earlier point with respect to who this applies to. Are we saying then that on line 116 that
11 it would really be an owner of property that uses a solar or geothermal energy device; is
12 that how that would be rewritten?

13
14 Councilmember Leventhal,
15 An owner of a residential property.

16
17 Councilmember Floreen,
18 No, I thought we were talking about commercial. I thought we were talking about
19 extending this to the commercial sector as well.

20
21 Councilmember Leventhal,
22 Well, it's going to run out faster if you do that. I'd be open to doing it -- .

23
24 Councilmember Floreen,
25 Okay, I'm just trying to understand where we are. I thought that's what I heard.

26
27 Councilmember Berliner,
28 No, it was residential.

29
30 Councilmember Trachtenberg,
31 Residential.

32
33 Councilmember Floreen,
34 Well that's what's proposed. I wasn't sure what -- I thought we were also extending this
35 to -- .

36
37 Councilmember Berliner,
38 Expanded it to renters.

39
40 Councilmember Floreen,
41 Commercial.

42
43 Councilmember Berliner,
44 No, we -- that was not my intention. I believe we will run out too.



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1
2 Councilmember Floreen,
3 Well, I don't who's mo -- it was Mr. Leventhal, I think, who raised that.

4
5 Councilmember Leventhal,
6 I'm comfortable with residential property. I think that -- that speaks to the issues that
7 have been raised here; Ms. Ervin's point about retrofitting multi-family housing. The
8 issue that we've been dealing with about incentivizing home energy audits and better
9 individual home energy efficiency. It would be nice to incentivize commercial property,
10 but we already have a green buildings requirement in place for commercial property.
11 So, I mean, we can only get to so many things I think.

12
13 Michael Faden,
14 So you all are definitely taking out owner-occupied on line 116.

15
16 Councilmember Trachtenberg,
17 Right.

18
19 Councilmember Floreen,
20 And I'd just say I think that's unfortunate, because I think we should extend it to the
21 commercial sector. LEED actually doesn't go as far as some of the other energy
22 initiatives. And I think, no matter what, this will be considered by the sustainable --
23 sustainability working group in terms of looking at commercial sector initiatives as well,
24 because frankly the commercial sector, A, is already doing -- well, we're trying to create
25 incentives for that portion of our community to contribute. And when they're looking at
26 their bottom line, you know, certainly anything that we can do to encourage energy
27 efficiency is valuable. It's something we're already asking the group to look at in terms
28 of other incentives. No doubt this is going to come back to us in the future. But I don't
29 know why we would limit it solely to residential property, because we want -- there's a
30 lot of rehab that needs to be done. Most of this County is constructed [inaudible]. The
31 new stuff is marginal compared to who's here. And the cost of retrofitting is
32 extraordinary. And anything we can do to encourage improvements in that area where
33 the bottom line is a daily factor is, I think, a good goal. I don't know if there's any interest
34 here in to adding the commercial sector to this. But these are people who might be able
35 to put in place a major geothermal device that's desirable for an existing building. Lord
36 knows we can't do it here at the County -- in the County environment, I suspect, but if
37 the private sector can do it, it could make a big dent it is contribution to the emissions
38 problem. Anybody else in support?

39
40 President Knapp,
41 Councilmember Elrich. I would be interested, but I think I'm going to get to
42 Councilmember Elrich first and then come back to it.

43
44 Councilmember Floreen,



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1 Yeah, okay.

2
3 Councilmember Elrich,

4 I guess I feel like we would break the bank if we do that. But I do think that if we're going
5 to extend this to residential property in general, we probably ought to up the limit for
6 multi-family properties, because 250 won't do very much. And if you had like a ten-unit
7 building and you had, you know, you we're going to replace all of the thermostats in the
8 building with programmable thermostats, you're allowing 250 for credit on a single home
9 and 250 on an apartment building; and I'd at least suggest maybe a multi-family units
10 going up 250 a unit up to \$1,000 and maybe capping it at 1,000 if you're going to try to
11 provide some incentive to going back into the older buildings and doing some of this.

12
13 Councilmember Berliner,

14 Folks, I'm happy to increase the pot of dollars. I'm happy to increase particularly with
15 respect to multi-family. I do think we have some constraints fiscally, so that's my
16 concern. And I felt that with limited dollars that we ought to focus it first and foremost on
17 residential homeowners. I appreciate that this can also serve renters, and that's
18 important. It would significantly increase the cost. We do have a cap now of 250 per
19 unit; we could make that a per-unit in terms of a literally per unit as opposed to per
20 home. So I'm comfortable with expanding it. I do feel going commercial would be a
21 bridge too far, because I feel it would dilute this effort in a way that I feel is inappropriate
22 to get to the residential homeowners, to get to the renters. I think that's our first priority.
23 And in a fiscally-restrained environment, I think we ought to address our first priority. So
24 I'm happy -- if my colleagues believe and if there's support for expanding particularly to
25 create even -- I'd be willing to create a third pot of dollars for multi-family. And so that
26 we have homeowners and \$250,000 for multi-family and get -- .

27
28 President Knapp,

29 I would go along with that, and to do those three elements, cap them all at 250 to start,
30 to Councilmember Leventhal's perspective, to let's monitor it closely and see where we
31 are. But I mean if we're going to put our money where our mouth is over time, we're
32 going to have to provide the resources to do this. But that would be my recommendation
33 is to do those three pots and then -- and I would like to come back and visit the
34 commercial. I just don't think you start there. I think you've got to do the first three and
35 then we come back. Councilmember Leventhal.

36
37 Councilmember Leventhal,

38 Well, there's a range of options here. This is a great conversation. I mean, we're
39 focusing on this -- some of us really for the first substantive time. So let me throw some
40 more thoughts out, and then we'll -- let's make a decision now. But my first thought is
41 let's make a decision. Let's establish the property tax credit. Let's have the sustainability
42 working group evaluate it very carefully so that after the first year of operation. Let's get
43 some recommendations. Just as the conversation I've been having with DEP about
44 what is -- again, how much does it cost to reduce a ton of CO2, okay? What are the



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1 results? What do we think we've achieved in terms of energy efficiency? How much did
2 it cost us? And then how does that compare to other things we've got going; so what
3 makes the most sense? You know, a ton of carbon is a ton of carbon, it doesn't really
4 matter whether it's generated by a factory or by individuals; we want to promote virtuous
5 behavior by folks who live at home. But we also want to reduce the amount of CO2. So
6 the most important thing really is reducing CO2. So let's -- so if we want to emphasize
7 individual homeowners because, you know, we like that and, you know, let's face it,
8 they vote for us; let's start with that just to get something going. Then we've got a
9 program. An option would be -- so first of all I'd like to suggest that we have the
10 sustainability working group evaluate this after a year and apply the same test that
11 we're applying to these programs. How much greenhouse gas reduction have we
12 achieved? How much did it cost per ton? So let's have language to that effect.
13 Secondly, if we wanted to incentivize business, one of the things we did with clean
14 energy rewards was business got a different rate than individuals. So you could go to a
15 25% credit instead of a 50% credit. It's just a thought, and that would cost less. Third,
16 this gets back to the conversation we had earlier. This could be the way, if we wanted to
17 go there, we don't have to do it now but maybe the sustainability working group could
18 get back to us, that we help some of these energy star homes recoup their costs. So
19 what -- we're using a mix on all of these energy efficiency and energy conservation of
20 mandates and incentives. Sometimes we have a mandate, other times we have an
21 incentive. Okay. So we're forcing the home builders, or the buyers, however it gets
22 passed through, to basically take the energy star requirement in the teeth. They just
23 have to eat it. Whereas here, we're saying if you own an existing home and you're
24 retrofitting it, we're going to pay half the cost for you. We're going to give you 50% off on
25 your property tax. As a policy matter I'm not sure I understand the distinction. Why is it
26 that the builder of the new energy star home gets no benefit, zero; whereas the
27 retrofitter of an existing inefficient home gets 50% off on the dollar; what's the policy
28 justification for that? So if we're looking for a way, as we were talking about earlier, we
29 were talking about impact fees but we might -- but property tax credit is equally valid. It's
30 some way to recoup these costs on the front end of the new energy star homes, this
31 would bear looking at. I don't think we can solve it today. But you could use this same
32 instrument to deal with those costs that are -- or half of those costs, or 25% of those
33 costs, as well.

34
35 President Knapp,
36 Okay. Councilmember Trachtenberg.

37
38 Councilmember Trachtenberg,
39 Well, I would agree with the idea that this is the beginning and we modify as we go. And
40 so here's the quick question, which is, what's the mechanism by which we're going to
41 have regular reporting on the three pots of money and where we are with that so that
42 we don't get into the situation that George expressed some concern over, rightfully?
43 You know, in my mind what's the mechanism by which that happens? Does anybody
44 have anything -- and the reason I'm asking this is because, again, from my perspective



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1 within MFP, unless dates are isolated or we have some sense of a schedule, we often
2 don't find the information out as readily as we need to. And I'm just trying to get a sense
3 here to move this -- to keep this moving forward. How are we going to monitor how the
4 investments are made?

5
6 President Knapp,
7 I'd propose a quarterly report. From I guess Finance is where it's going to come from.

8
9 Unidentified,
10 It will come from Finance.

11
12 Councilmember Trachtenberg,
13 Yeah, it could be twice a year.

14
15 Councilmember Berliner,
16 Yeah, I don't think -- .

17
18 President Knapp,
19 Well but the problem -- the problem was that you actually wanted to have something
20 coming over so we could monitor it in a timely fashion. And if you wait and do it every
21 six months then -- .

22
23 Councilmember Elrich,
24 You could -- .

25
26 President Knapp,
27 Just a minute, we've got four other people that have to comment too. Every time we get
28 through it, we start over -- we start around again.

29
30 Councilmember Trachtenberg,
31 So you think quarterly would make sense?

32
33 President Knapp,
34 Well if you want to monitor it quickly I think you almost have to. Okay.

35
36 Councilmember Trachtenberg,
37 I'm open to that. I just want us to identify the way this -- we're going to -- .

38
39 Michael Faden,
40 You can either write in here requirement for regular reports or just do it outside the Bill,
41 because -- convey it to them, and I would assume -- expect that they would comply.

42
43 President Knapp,



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1 All right. So we need a regular reporting requirement. We have a proposal to do three
2 pots of money. Just making sure we get all -- capture all these modifications. Those are
3 the big ones. Okay. Further question, Councilmember Trachtenberg?

4
5 Councilmember Trachtenberg,
6 No, that was it. Quick.

7
8 President Knapp,
9 Okay. Doesn't make a difference at this point. Councilmember Elrich.

10
11 Councilmember Elrich,
12 We need some kind of cap on the multi-family. I mean, if you think about what we've
13 done for residential you -- .

14
15 President Knapp,
16 I think that proposal was the same cap, so 250, 250 and 250.

17
18 Councilmember Elrich,
19 250 for each?

20
21 President Knapp,
22 Yeah, do all -- .

23
24 Councilmember Berliner,
25 For each unit.

26
27 Councilmember Elrich,
28 That's -- .

29
30 Councilmember Berliner,
31 But we may want to also what we attempted to do before was cap so that no one
32 taxpayer ate up all the dollars.

33
34 Councilmember Elrich,
35 This is my concern is that you could have a forty-unit building that puts in \$100
36 programmable thermostats, so there's \$40,000 of your money gone. And several large
37 renovations of some large complexes could make all the money disappear. And so it
38 seems to me that in the homeowner's side of it, we've limited it to 250, even though
39 each window that a person might put in say 15, 20 windows in a house might be 250 by
40 themselves. So we're not making any effort there to match the actual dollar costs that a
41 person has put in. So I would suggest something like 2500 or -- which would allow you a
42 minimum of 100 apartment buildings or 5,000, which gets you a minimum of 50
43 apartment buildings with some floor on this.



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1 Councilmember Berliner,

2 And that would be comparable to what we did on the solar side and geothermal side
3 that whereas we go up to 50% we actually -- it's the lower of 50% or \$5,000; again,
4 designed not to recover all the dollars but to spread the dollars out. So that would be a
5 concept that I'd be comfortable with so that -- .

6
7 President Knapp,

8 Okay, we've got to work our way back through to get down to your end again.

9
10 Councilmember Berliner,

11 So I would comfortable with adopting a similar concept where it would be limited to -- go
12 ahead, Amanda, you were about to ask -- say something so save me from myself.

13
14 Amanda Mihill,

15 What I was about to ask is clarification of what the lesser of the two things are; \$250 per
16 unit, no greater than \$2,500? Is that what I heard? I'm just trying to clarify what I heard.

17
18 Councilmember Berliner,

19 I guess I would go for a multi-family up to 5,000, just comparable to what we did for the
20 solar, so that no one apartment owner could take more than 5,000 out of the \$250,000
21 pot that we are creating for this purpose.

22
23 Councilmember Elrich,

24 Based on what percentage of their costs; 50%, 25%? Because you're not giving
25 homeowners 100% of their costs, normally.

26
27 President Knapp,

28 Right.

29
30 Councilmember Elrich,

31 So -- .

32
33 President Knapp,

34 Do it the same for [inaudible].

35
36 Councilmember Elrich,

37 Some percentage here like 50% or 25. The lesser of -- .

38
39 Councilmember Berliner,

40 That's right.

41
42 Councilmember Elrich,

43 Pick a number.

44



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1 Councilmember Berliner,
2 Okay.

3
4 President Knapp,
5 Council Vice President Andrews.

6
7 Vice President Andrews,
8 Thank you. I was actually just -- a comment in response to Councilmember Leventhal's
9 observation that we're using different approaches here for new construction versus
10 existing homes. And I would say the reason for that, I think, is that generally I would
11 argue it's less expensive generally to build something into a new home and it's
12 amortized over 30 years; whereas with retrofitting often it's more expensive to retrofit
13 and often requires a full cash payment up front. So that is a real difference and a
14 burden, and the short- versus long-term absorbability of the cost.

15
16 President Knapp,
17 Okay, Councilmember Floreen, then Councilmember Leventhal.

18
19 Councilmember Floreen,
20 Thank you. I just wanted to remind everyone of you know what we did earlier with
21 respect to Bill 32-07, which is creating a climate protection plan, A, tasks the group with
22 evaluating options for these incentives so they can re -- I mean, that is part of their
23 direction, I think, to revisit these kinds of issues and advise us really in less than year as
24 to what would be better. Is there a more effective allocation? And by the time they get
25 us their first report, this will just have kicked in really. So we probably won't have too
26 much information in any event to go on at that point. But they may have some sense.
27 So I just want to remind everyone, you know, this is an evolving process that we're not
28 defining at this point. Likewise, it calls for an annual report with respect to actions taken
29 to implement this climate action plan of which this is a part. That's a pretty good
30 standard for advising us. But when we see the climate action plan next January, we can
31 certainly address the issue of a reporting schedule if we want and things of that nature.
32 But I would just say that we -- let's give this group an opportunity to devise a functional
33 plan that addresses the points that Mr. Leventhal has made. I think that's a really
34 important one about what's the best expenditure of money for the best return on
35 reduction in carbon emissions. And I think that's pretty well understood by that group,
36 and is pretty clear in this document. And if it isn't, we will certainly make it clear to them
37 as we work through this -- what is it now -- six-month, seven-month exercise. So I think
38 that these objectives really are contemplated within the existing structure that we're
39 setting up here.

40
41 President Knapp,
42 Councilmember Leventhal.

43
44 Councilmember Leventhal,



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1 Well I was going to make a comment very similar to Councilmember Floreen's; that is, it
2 is more important to reduce greenhouse gases than anything else we're talking about.
3 So the concern about landlords eating up the whole pot of money is a point, but if it
4 turned out that apartment buildings wasted a whole lot more energy and therefore, you
5 know, generated more greenhouse gases than single-family homes, I'd suspect that's
6 probably not true, but if it were true then we might want to incentivize landlords even at
7 the expense of landlords eating up the whole pot of money. I don't know what the
8 answer is. So what we need -- the greatest goal, the most important outcome that we
9 can achieve of any of this is an across-the-board baseline that we all agree to as to
10 what is the effect of our policy decisions on the reduction of greenhouse gases. What's
11 the most effective way to do that? And how much does it cost us per ton of CO2
12 reduced? And across all of these different policy tools the sustainability working group
13 should consult the best available academic data. And the academic research
14 contradicts each other on this. I mean, there's no -- it's not going to be an easy thing.
15 But we have to develop a Montgomery County standard measurement.

16
17 Vice President Andrews,
18 How permanent is a reduction [inaudible]?
19

20 Councilmember Leventhal,
21 Well, sure. I mean, over time too is one of the things to take into account. But I mean
22 Mr. Berliner has quoted statistics that energy efficiency saves you more in carbon than
23 clean energy. We need some standard measurement. And then the county government
24 has got to promulgate based on its best available research what that is. And so I guess
25 my sense is -- well first of all I have a question. Can Finance -- is Finance here? Is the
26 Finance Department here? Okay, can we do this for this upcoming tax year? Can we do
27 this beginning July 1 of '08? Because clean energy rewards took like two years to get
28 up and going. Now maybe -- maybe we're more familiar with property tax credits.
29

30 President Knapp,
31 I would propose that we -- I mean, all the points we have here we're not going to
32 necessarily fix today. What I would like to get to -- Councilmember Elrich has one more
33 question.
34

35 Councilmember Leventhal,
36 Well if we're going to do -- may I just -- I'll finish quickly.
37

38 President Knapp,
39 Finish out because I'd like to try and lay this out.
40

41 Councilmember Leventhal,
42 If we get this up and running for individual homeowners as drafted, July 1st of '08; and if
43 the sustainability working group factors this policy instrument into all of the different
44 tools in our toolbox that we're evaluating for greenhouse gas emissions, then maybe we



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1 could address the commercial sector and maybe even the multi-family sector a year
2 later as part of -- and this is what Ms. Floreen, I think is getting to. So if we go with what
3 we've got now and evaluate it carefully, and then propose expanding it if that makes the
4 most policy sense based on the research of the sustainability working group does, that
5 might -- then we could get out of here. Pass this Bill now. Make some progress now and
6 see how it works. Get a process up and running, and then a year later come back and
7 potentially expand it to other beneficiaries.

8
9 President Knapp,

10 Okay. Let me go to Mr. Elrich, then try and wrap all this back up and get us to a point.

11
12 Councilmember Elrich,

13 I just want to get to the issue of the large buildings and desirability. And one of the
14 things that I think we've got to consider, and it's hard to factor into law, is that if a large
15 building is going through, for example, a condo conversion, they may be well -- they
16 probably are upgrading the building and may well put this stuff in there anyway, in which
17 case providing a tax credit for something you would have done anyway may well rob the
18 ability of -- and I think this is what we're trying to get to with the multi-family, which is
19 retaining affordability. So the small landlord, you know, in Takoma Park or Silver Spring
20 has got a 10-unit building, he's not doing the rehab because he's going to sell the units,
21 he's doing the rehab because it's time for him to replace the thermostats or the furnace.
22 And what we want him to do is to do the rehab and not jack tenants' rents sky high to
23 compensate for the rehab. So there are unintended consequences, and we may well
24 bleed out money in a sector that doesn't need to the bleeding out of the money and then
25 make it unavailable to the very people we'd like most to help. So my hope was to try to
26 spread it around as broadly as possible so that there was more of a shot for the smaller
27 landlords to get into this pie a little bit.

28
29 President Knapp,

30 I guess I don't disagree, but I'm still not sure if a ton of carbon is going to be a ton of
31 carbon. Wherever we can get it, I think we're going to have try and get it. All right, last
32 comment, Mr. Leventhal.

33
34 Councilmember Leventhal,

35 Okay, but Mr. Elrich makes a valid point that I think actually reinforces what I just said.
36 And clean energy rewards is the same way. Mr. Berliner and I were talking about this a
37 couple of days ago. Both he and I have already gone ahead and got 100% wind power
38 at our home and have not applied for the clean energy reward. I went ahead and got
39 mine from Pepco Energy Services, which is not qualified for the clean energy reward. It
40 was the easiest and the quickest and the cost, you know, a penny per kilowatt hour, you
41 know, I said no thank you to my \$60. So I went ahead and did it. So I'm reducing carbon
42 all by myself, thank you; no incentive from the County. Which is what Mr. Elrich is
43 saying, that some people might go ahead and make these investments and therefore a
44 County dollar spent on incentives is a County dollar that didn't need to be spent, which



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1 to me suggests is stands to reason that you should begin this program -- I've now come
2 full circle in this conversation.

3
4 President Knapp,
5 I was going to say you have.

6
7 Councilmember Leventhal,
8 No, but listen. You should begin this program, get is going as drafted. Let individual
9 homeowners benefit. Let the sustainability working group do another survey. You know,
10 the environmental survey that came out didn't go into the kind of depth that I wish it had.
11 Because we really didn't ask as specific questions as I wish we could have about what
12 specific investments might you make and what benefits in terms of a tax credit or a
13 rebate or something would incent you to do this. The survey that the County Executive
14 released last week was pretty general. You know, do you think the environment is
15 important. Who's going to say no to that; 80% of the people said the environment is
16 important. I can't imagine who the 20% are. You know, that didn't seem to me a very
17 surprising finding. So if we could delve a little deeper and do some actual -- some focus
18 groups and some research into business behavior. Let's get a group of multi-family
19 property owners together. We've expressed a lot of interest here in making sure the
20 tenants get the benefit of energy efficiency. Okay, so let's get the owners of those
21 properties together in the course of the year. Let's find out what are the cost barriers to
22 them, and what kind of incentives might increase the likelihood that they would -- that it
23 would be a dollar well spent instead of an incentive wasted, which is Mr. Elrich's point.
24 So let's begin now with the individual homeowners. Let's get the program up and
25 running. And then let's look at expanding it after a year, which is not very long from now.

26
27 President Knapp,
28 All right. Hoping not to engender a lot more discussion this one, I just want to make
29 sure. So have we come back around so that people are generally okay with go with
30 what we have in front of us to get started, adding some type of regular reporting so that
31 we know when we kind of cross some threshold, or when we're getting close to getting
32 to that threshold. So I think that's the only addition we have is -- .

33
34 Councilmember Floreen,
35 We're not going to know.

36
37 President Knapp,
38 Let's let staff get with Finance and figure out what the right timing is, so we can figure
39 out when to get that information.

40
41 Councilmember Leventhal,
42 My objective, and I hope the Council will go along with me, is that this program does not
43 get interrupted abruptly without the Council having the opportunity to augment it with
44 another couple hundred thousand dollars. We don't want a repeat of that experience.



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1
2 President Knapp,

3 And that's the point of the reporting requirements. So I just want to make sure.

4
5 Councilmember Leventhal,

6 Well, Councilmember Floreen said we're not going to know. We've got to have some
7 early warning system.

8
9 President Knapp,

10 Okay.

11
12 Councilmember Leventhal,

13 And the directive to the Executive Branch has got to be -- .

14
15 President Knapp,

16 It's okay. We're good.

17
18 Councilmember Trachtenberg,

19 Chill.

20
21 President Knapp,

22 Everyone is okay. We've got a reporting, so let's get with Finance and figure out what
23 the right reporting requirement will be. So we have that so we can actually figure out
24 when we're getting close so the Council can actually make a decision so we don't run
25 into the same thing we ran into before. Okay.

26
27 Councilmember Berliner,

28 And I would just remind my colleagues, in closing, with respect to this that, again, the
29 Bill that we just passed, Bill # 30-07, does, in fact, require the sustainability working
30 group to evaluate "options for creating incentives for the owners of commercial, multi-
31 family residential or single-family residential buildings to modify the buildings to increase
32 their energy efficiency." So there are tasks and formally tasked with looking at those
33 very issues in addition to the work we're about to do now.

34
35 President Knapp,

36 Okay. Amanda, do you have a question?

37
38 Amanda Mihill,

39 The only question that I had is the Council comfortable with the staff amendment that
40 we circulated?

41
42 Councilmember Berliner,

43 Yes.



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1 President Knapp,
2 I think -- yes. I see no one dissenting.

3
4 Michael Faden,
5 You need one more technical amendment if you want -- as was said a long time ago --
6 be able to augment the -- to increase the pot mid year. If you go to circle 6, line 130, we
7 took out the word appropriated, so what we would say unless a larger amount is
8 approved in a Council resolution.

9
10 President Knapp,
11 Okay.

12
13 Councilmember Berliner,
14 Thank you.

15
16 President Knapp,
17 I think everyone is concerned about making sure we can augment it, so that works.
18 Okay. Are there any more lights?

19
20 Councilmember Berliner,
21 I think we're good.

22
23 President Knapp,
24 Okay. Madam Clerk, call the roll on Bill 33-07, Renewable Energy, please.

25
26 Council Clerk,
27 Mr. Elrich.

28
29 Councilmember Elrich,
30 Yes.

31
32 Council Clerk,
33 Ms. Floreen.

34
35 Councilmember Floreen,
36 Yes.

37
38 Council Clerk,
39 Ms. Trachtenberg.

40
41 Councilmember Trachtenberg,
42 Yes.

43
44 Council Clerk,



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1 Mr. Leventhal.

2
3 Councilmember Leventhal,
4 Yes.

5
6 Council Clerk,
7 Ms. Ervin.

8
9 Councilmember Ervin,
10 Yes.

11
12 Council Clerk,
13 Mr. Berliner.

14
15 Councilmember Berliner,
16 Yes.

17
18 Council Clerk,
19 Mr. Andrews.

20
21 Vice President Andrews,
22 Yes.

23
24 Council Clerk,
25 Mr. Knapp.

26
27 President Knapp,
28 Yes. Bill 33-07 passes unanimously. Thank you very much. And we now turn to our final
29 Bill, as it relates to this series; Consumer Protection - Energy and Environmental
30 Advocacy, Bill 35-07. Council Chair Trachtenberg -- Committee Chair.

31
32 Councilmember Trachtenberg,
33 Actually I know Councilmember Berliner is going work us through this item at my
34 request, but I wanted to ask the Clerk to record me for votes from earlier today. So it
35 would be a vote of support for Bill 30-07 and 31-07, I believe. Thank you. Roger.

36
37 Councilmember Berliner,
38 Thank you, Madam Chair. This is a Bill that will, for the first time, ensure that the County
39 is an active participant in proceedings before the Maryland Public Service Commission
40 and potentially the Federal Energy Regulatory Commission. As has been alluded to,
41 much of the decisions that affect our utilities essentially all of the decisions that affect
42 our utilities are made by the State or the Federal Government, and this County has not
43 participated in that process. And we need to, because when Pepco comes in for rate
44 increase, or when Pepco comes in with a proposal to in fact have energy efficiency



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1 improvements, we need to be there. We need to be there not only because these are
2 important policy items, but because we are among their largest customers. And so far
3 we've no conversations with them with respect to how they could help us reduce our
4 utility bills. It's a conversation that I've had with them and I know a number of my
5 colleagues may have had these conversations in the past. But they need to be our
6 partner in achieving our energy efficiency objectives with decoupling, which is a term
7 that says basically no longer does a utility make all of its money by selling electricity.
8 That used to be the case. So they had no incentive, in fact, a disincentive to reduce the
9 sale of energy. Recently we've changed that in Maryland, as other states have changed
10 it. And now we are saying that the Consumer's Council, under Mr. Friedman's
11 leadership, that we will go forward and we will participate in those proceedings
12 consistent, and seek the lowest possible rates consistent with our environmental values.
13 So it isn't just the lowest cost possible rates, because there are going to be times when
14 in order to achieve energy efficiency we're going to have to have higher rates than we
15 would if we didn't care about energy efficiency. So it is to say we need to play. This is
16 an important arena. We've been absent from that arena for far too long. And this will
17 give us the ability to have a lot of conversations with Pepco to reduce our own bills and
18 to help reduce our bills across our consumers. So it is, I will say to my colleagues, it is a
19 role that for 15 years I played on behalf of the County of Los Angeles before the
20 California Public Utilities Commission. So having done that for the County of
21 Los Angeles, it felt like this is something that Montgomery County needs to do and
22 should do for itself.

23
24 President Knapp,
25 Okay, Councilmember Leventhal.

26
27 Councilmember Leventhal,
28 Okay, I completely support this bill. I don't understand how on circle 6 the Office of
29 Consumer Protection can believe that this law will not have a fiscal impact. I don't
30 believe it for a moment. The expertise to play this role before the Public Utilities
31 Commission is not today resident in the Office of Consumer Protection, so they're going
32 to have to acquire some new capacity. They don't have staff who know how to do this.
33 So how can it have no fiscal impact? And I point this out because the \$1.5-million
34 estimate in the first year that I put together was the low range of all the fiscal impact
35 statements that we got from OMB. And I don't know if anyone from OMB is here, but the
36 other representatives of the Executive Branch can take this back. It doesn't serve the
37 Executive Branch to low-ball these numbers. We're enacting these bill -- I mean, we're
38 sending these Bills to the County Executive to sign, and then they're going to be
39 enacted. These things are actually going to happen. So if we're relying upon fiscal
40 statements that say it doesn't cost anything, we're not going to be able to carry this out.
41 It's not in our interest that OMB say things are free. This isn't going to be free. I don't
42 believe it. So in the course of the next few weeks we need real budget estimates
43 because we're really going to do this and we have to pay for it.



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1 President Knapp,

2 I think that's a good point, and I think, unfortunately, if we can't get real estimates then
3 we're going to have to rely on our staff to help put some estimates together. And that will
4 set up a situation that I don't think OMB at the end of the day really wants to happen,
5 because all the estimates coming from two different places. So I think it's going to be
6 important to have from OMB and from the departments real numbers for us to look at.
7 Councilmember Floreen.

8
9 Councilmember Floreen,

10 Yes. There was an exchange in here that I found interesting about advocacy as to on
11 whose behalf. Because when I had first seen this I thought we were focused on county
12 rate payers. And according -- at least to our legal staff, there appears to be -- it appears
13 to be more complex. Could you explain that to us?

14
15 Amanda Mihill,

16 Sure. It was the Planning Board that had brought this to the committee's attention
17 whether or not the rate payer advocate should advocate for consumers in the County or
18 the County's interest. And there's already a system where the Maryland people's
19 council advocates on behalf of rate payers in the state. And so it was the committee
20 recommendation to retain this as the County's interest, also recognizing that in many
21 cases it will be advocating for the same position.

22
23 Councilmember Floreen,

24 The same position as the People's Council serve the individual?

25
26 Amanda Mihill,

27 Well the same position the County's interest would coincide with that of the general
28 consumer and the County.

29
30 Councilmember Floreen,

31 Okay. And then my other -- so an individual isn't going to call up this person and say
32 fight for me. I think it's important to be clear; it's an advocacy of County policy?

33
34 Amanda Mihill,

35 That's correct.

36
37 Councilmember Floreen,

38 And then it's always struck me that there was an inherent inconsistency between the
39 focus on conservation of resources and advocacy for lowest possible rates. And I don't
40 if there is -- there must be work done on this issue in terms of how you create incentives
41 for people to reduce their energy usage, while also advocating to make those costs as
42 low as conceivably possible to benefit the rate payer. But in fact it does create, I think --
43 there is some tension there, and I am wondering if the committee took this up or if the --
44 certainly our sponsor, who is the expert in this field, could comment on this. I see it says



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1 lowest possible rates consistent with environmental stewardship. I'm not sure -- perhaps
2 that's a term of art that we need -- I'm just not familiar with it.

3
4 Councilmember Berliner,

5 It is not term of art; it is a term of the sponsor of the legislation. Which I will promise you
6 is not art.

7
8 Councilmember Floreen,

9 Term of Roger.

10
11 Councilmember Berliner,

12 Yes, it's a term of Roger. It was to acknowledge the inherent tension that you've
13 identified. Yes that coal is the cheapest electricity that is on the market. Is coal
14 consistent with our environmental values? No. Does that mean that we would be
15 arguing for things that could, in fact, cost consumers more? Yes. So it is to say we want
16 the lowest possible costs consistent with our environmental values. And I believe that
17 this Council is articulating its environmental values through the course of the seven bills
18 that we are adopting here -- have adopted and will be adopting today. So yes there is
19 that tension. And yes we are seeking to tell our consumers we don't want to spend more
20 than we have to, but we are going to spend as much as we have to in order to protect
21 our environment. So, yes, that's exactly what we're trying to do there.

22
23 Councilmember Floreen,

24 I guess what I would say is that I'm just wondering if you thought about using somewhat
25 different language with respect to environmental stewardship as opposed to reduction of
26 greenhouse gas emissions of something that made it clear what the commitment was.
27 Perhaps it's not necessary, but I think the record should reflect, at least, that that is our
28 intention, if it is, with respect to this advocacy initiative. Because it's really quite
29 important, I think, to make clear the prioritization of that objective in this advocacy
30 environment, because of the kinds of tradeoffs. And I know it's not my world, that's for
31 sure. But it is certainly easy to see looking back some of the tradeoffs that have been
32 made over time that appear to achieve these results. But once, of course, you peel the
33 onion apart it becomes something else. So I'm wondering if this is -- gives clear enough
34 direction on the subject.

35
36 Councilmember Berliner,

37 It was intended to ensure that our global warming objectives were in fact subsumed
38 within an environmental stewardship. I grant you that a stewardship is a broad term.
39 And it was intended to be broad in order so that it doesn't preclude considerations of
40 things beyond global warming. I am happy if it's deemed important to my colleagues to
41 say environmental stewardship including the County's global warming objectives so that
42 we specify that.

43
44 Councilmember Floreen,



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1 I would recommend that we -- .
2
3 Councilmember Berliner,
4 Climate change, excuse me.
5
6 Councilmember Floreen,
7 Climate change objectives. Okay, if we could add that.
8
9 Councilmember Berliner,
10 That would be fine.
11
12 Councilmember Floreen,
13 That would give more direction to Mr. Friedman, who is going to be very busy.
14
15 President Knapp,
16 Okay. Councilmember Elrich.
17
18 Councilmember Elrich,
19 [Inaudible].
20
21 President Knapp,
22 Okay. All right. Further discussion? Okay. Madam Clerk, if you would call the roll on Bill
23 35-07, Consumer Protection.
24
25 Council Clerk,
26 Mr. Elrich.
27
28 Councilmember Elrich,
29 Yes.
30
31 Council Clerk,
32 Ms. Floreen.
33
34 Councilmember Floreen,
35 Yes.
36
37 Council Clerk,
38 Ms. Trachtenberg.
39
40 Councilmember Trachtenberg,
41 Yes.
42
43 Council Clerk,
44 Mr. Leventhal.



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Councilmember Leventhal,
Yes.

Council Clerk,
Mr. Berliner.

Councilmember Berliner,
Yes.

Council Clerk,
Mr. Andrews.

Vice President Andrews,
Yes.

Council Clerk,
Mr. Knapp.

President Knapp,
Yes. Motion carries. Bill 35-07 is approved. I would commend Councilmember Berliner and commend my colleagues for a very thorough and robust discussion on some very important legislation. So I'm -- we'd originally anticipated this would take us much less time, but I think the discussion we had was a very fruitful and worthwhile discussion, and I think just kind of points out that the number of issues that are here that lots of folks are going to be getting up to speed on over the course of the coming years and need to. And so I thank our staff for their efforts, and I thank all of you who sat through this with us for the last four and a half hours for your endurance as well. So we thank you all very much. The Council is adjourned. We have two committee meetings that were supposed to start a little while ago. The T&E Committee will meet up here on the seventh floor, and the Public Safety Committee will meet down in the third-floor conference room, say -- so you want to say at 3:30 -- okay, at 3:30, according to the Chairs. Thank you all very much.